

ORIGINAL

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

X

4 NELSON QUINTANILLA, ALEJANDRO AMAYA, ALEX AMIR
5 AREVALO, MAYNOR FAJARDO, WALTER GARCIA, JOSE L.
6 MARTINEZ, PRACELIS MENDEZ, OSMAR W. PAGOADA,
7 JAVIER QUINTANILLA, EDWIN RIVERA, CARLOS
8 ESCALANTE, KEVIN GALEANO, LERLY NOE RODRIGUEZ,
9 JOSE VEGA CASTILLO, JUAN QUINTEROS, and MARCUS
10 TULIO PEREZ,

11 Plaintiffs,

12 -against-

13 SUFFOLK PAVING CORP., SUFFOLK ASPHALT CORP.,
14 LOUIS VECCHIA, CHRISTOPHER VECCHIA, HELENE
15 VECCHIA, and JOHN DOES 1-5,

16 Defendants.

X

17 September 14, 2011
18 10:30 a.m.

19 4875 Sunrise Highway
20 Bohemia, New York

21 DEPOSITION of MAYNOR FAJARDO, one of the
22 Plaintiffs herein, taken by the Defendants,
23 pursuant to Order, held at the above-mentioned
24 time and place, before MICHELLE ADAMO, a Notary
25 Public of the State of New York.

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A P P E A R A N C E S :

LAW OFFICE OF IAN WALLACE, PLLC
Attorneys for Plaintiffs
501 Fifth Avenue, 19th Floor
New York, New York 10017

BY: IAN F. WALLACE, ESQ.
PATRICK MCNAMARA, ESQ., of counsel

ZABELL & ASSOCIATES, P.C.
Attorneys for Defendants
4875 Sunrise Highway
Bohemia, New York 11716

BY: SAUL ZABELL, ESQ.

ALSO PRESENT:

Margarita Arias - Spanish interpreter

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED
by and between the attorneys for the
respective parties herein, that filing,
sealing and certification be and the same
are hereby waived.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form
of the question shall be reserved to the
time of the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be
signed and sworn to before any officer
authorized to administer an oath, with the
same force and effect as if signed and
sworn to before the Court.

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2 M A R G A R I T A A R I A S, having been first
3 duly sworn by a Notary Public within and
4 for the State of New York, translated the
5 questions from English into Spanish and the
6 answers from Spanish into English under
7 oath as follows:

8 M A Y N O R F A J A R D O, the witness herein,
9 having been first duly sworn by a Notary
10 Public in and of the State of New York, was
11 examined and testified as follows:

12 EXAMINATION BY

13 MR. ZABELL:

14 Q State your name for the record,
15 please.

16 A Maynor Fajardo.

17 Q State your address for the record,
18 please.

19 A 24 Carter Street, Huntington, New
20 York 11743.

21 MR. ZABELL: Counsel for the
22 plaintiffs has agreed, based upon the
23 time of his arrival both yesterday and
24 today, that he will be paying the
25 translator's fees for one hour each day;

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one hour yesterday and one hour for today; is that correct?

MR. WALLACE: That is correct.

MR. ZABELL: In addition, we have stated and showed Counsel, have the computers that were in the possession of the DA's office, they are currently powered up and hooked up to a monitor with a keyboard and a mouse, but they are not going beyond the initial boot-up stage.

Counsel, did I show you that?

MR. WALLACE: That is correct.

MR. ZABELL: Because they are not going beyond the boot-up stage, I am of the opinion that it would require someone with a bit of computer savvy to access the content of that information.

Counsel, was that your understanding, as well?

MR. WALLACE: There were two computers that were shown to me. You represented the laptop and the desktop also.

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2 MR. ZABELL: They suffer from the
3 same issue. As I represented to Counsel,
4 I have already been in contact with the
5 District Attorney's office, and I have
6 reached out to their computer
7 individuals, who had access to the
8 computers, to determine if they took any
9 steps that would have resulted in the
10 current condition of the computers.

11 I am waiting for them to get back
12 to me. I spoke specifically to Charles
13 Bartel, who advised me that he will reach
14 out to them and have them try to contact
15 me.

16 I will agree to make the computers
17 available at some later date, a
18 mutually-agreed upon later date when
19 Counsel and I discuss and figure out who
20 is responsible for getting the computer
21 information into an accessible form.

22 Once that is done, I will make the
23 computers, again, available for
24 inspection and review. I advised Counsel
25 of this early enough today so he can

1 M. Fajardo

2 reach out to his bookkeeper, who he had
3 advised me will be coming today at 5:00;
4 is that correct, Counsel?

5 MR. WALLACE: That's correct. We
6 mutually agreed yesterday that a
7 bookkeeper would come to access the
8 QuickBooks reports on the computers.

9 This morning today, for the first
10 time, this issue was revealed about this
11 and this technical fault in the computer
12 and therefore, Counsel is correct that
13 this clearly needs to be addressed, and
14 we're mindful of the deadline tomorrow as
15 set by the Court.

16 I believe we have to advise the
17 Court as soon as practical of this turn
18 of events.

19 MR. ZABELL: Counsel, if you mean
20 you would like to call the Court at this
21 time, I would be amenable to that.

22 MR. WALLACE: I don't think we
23 should postpone the process, if you're
24 okay with that.

25 MR. ZABELL: You do?

1 M. Fajardo

2 MR. WALLACE: You're okay with
3 that?

4 MR. ZABELL: With what?

5 MR. WALLACE: Addressing this with
6 the Court at another time. I think it's
7 better that we will proceed with the
8 deposition.

9 MR. ZABELL: If that is your
10 suggestion, Counsel, I have no objection.

11 MR. WALLACE: Would you be
12 available tomorrow to call the Court?

13 MR. ZABELL: No, I will not be
14 available, but perhaps, we can do it
15 sometime today.

16 Q Mr. Fajardo, how are you feeling
17 today?

18 A Good, thank you.

19 Q I'm going to be asking you
20 questions in English. It is clear from both
21 your eye contact and your immediate responses
22 that you understand some English.

23 For purposes of this deposition,
24 though, I want you to wait until the questions
25 that I ask of you are translated into Spanish,

1 M. Fajardo

2 then I want you to only answer the questions in
3 Spanish.

4 Do you understand that?

5 A Yes.

6 Q Spanish is your native language;
7 is that correct?

8 A Yes.

9 Q The young lady sitting to your
10 left, do you have any issues understanding her?

11 A No.

12 Q You understand that you're at a
13 deposition, do you not?

14 A Yes.

15 Q At this deposition, you are
16 required to respond to the questions that I ask
17 of you.

18 Do you understand that?

19 A Yes.

20 Q If you do not understand a
21 question, you have an obligation to tell me that
22 you don't understand the question.

23 Do you understand that?

24 A Yes.

25 Q If you provide an answer to a

1 M. Fajardo

2 question that I ask you, it will be assumed that
3 you understood that question.

4 Do you understand that?

5 A Yes.

6 Q Are you currently under the
7 influence of any drugs or alcohol?

8 A No.

9 Q When was the last time you partook
10 in drinking alcohol?

11 A December 26, 2010.

12 Q Can you think of any reason why
13 your ability to give truthfully and accurate
14 testimony today would be impaired?

15 A Excuse me, I didn't understand.

16 Q Can you think of any reason why
17 you would not be able to give truthful and
18 accurate testimony today?

19 A I don't think there is any reason.

20 Q I'm going to serve you with a
21 complaint in a civil matter right now.

22 MR. ZABELL: Please let the record
23 reflect that I have provided Mr. Fajardo
24 with a copy of a complaint naming him as
25 a defendant in a civil action.

1 M. Fajardo

2 Q You are encouraged, Mr. Fajardo,
3 to read that, and to reach out to legal counsel,
4 so they may defend you in that lawsuit.

5 A Okay.

6 Q Mr. Fajardo, are you known by any
7 other names?

8 A Yes.

9 Q How many different names are you
10 known by?

11 A Renato is my second name.

12 Q What was the name that you were
13 given at your birth?

14 A My name is Maynor Fajardo, and
15 before I was Renato Guerra, G-U-E-R-R-A.

16 Q Why do you have two separate
17 names?

18 A Because at that time, I didn't
19 have papers and I was fixing my papers with
20 immigration, and I couldn't work with the name
21 Fajardo.

22 Q So you provided the false name of
23 Renato Guerra?

24 MR. WALLACE: The portion is going
25 into areas that are covered by the

1 M. Fajardo
2 protective order regarding all questions
3 about immigration status.

4 So if this line of questioning
5 will go into Mr. Fajardo's immigration
6 status prior to the time that he was
7 separated from the company, I'm going to
8 object and I'm going to direct the
9 witness not to answer the question.

10 MR. ZABELL: I'm simply asking him
11 about the names he has gone by. I have a
12 right to ask him what company he provided
13 those names to, especially if one of them
14 is the defendants.

15 So I am going to continue to ask
16 him about that. I strongly suggest that
17 you sit back and listen, and if there is
18 a specific question you find
19 objectionable, you can raise an
20 objection, and if you think it runs foul
21 with any of the Judge's orders, then you
22 will address it at that time.

23 Q During what period of time to what
24 period of time did you work as Renato Guerra?

25 A From 1998 to 2002 or 2003, I don't

1 M. Fajardo

2 remember well.

3 Q Who is Renato Guerra?

4 MR. WALLACE: Objection, asked and
5 answered.

6 Q You may answer.

7 A I am.

8 Q Where did you get the name Guerra
9 from?

10 A Through my father.

11 Q So you utilized your father's
12 name?

13 A My father's last name.

14 Q Fajardo is whose last name?

15 A My mother's.

16 Q What is your father's name, full
17 name?

18 A Hector Antonio Guerra.

19 Q In your country of origin, is it
20 typical for the son to take on the name of the
21 mother?

22 A No, the father's.

23 Q Then, why do you go by your
24 mother's last name?

25 A Because my father did not

1 M. Fajardo

2 recognize me.

3 Q What does that mean?

4 A He didn't want to sign giving me
5 his last name.

6 Q Why?

7 A I don't know.

8 Q Did you ever ask him?

9 A No.

10 Q But you took his last name?

11 A Yes.

12 Q Even though you had no legal right
13 to do so?

14 MR. WALLACE: Objection.

15 Q You may answer.

16 MR. WALLACE: Objection, asked and
17 answered.

18 A Excuse me?

19 Q Even though you had no legal right
20 to take his last name, you took his last name?

21 MR. WALLACE: Renewed objection.

22 A Yes.

23 Q Do you have any documentation in
24 the name of Renato Guerra?

25 A No.

1 M. Fajardo

2 Q Do you have a driver's license?

3 A No.

4 Q Are you authorized to drive in the
5 United States?

6 A Yes, but at this time, no.

7 Q Why is that?

8 A Because my license is suspended.

9 Q Why is your license suspended?

10 MR. WALLACE: Objection, I'm going
11 to take a break.

12 Q I'm going to ask you to answer the
13 question.

14 A Because of an immigration case.

15 MR. ZABELL: Let the record
16 reflect that Mr. Wallace is hurriedly
17 departing the room.

18 (Whereupon, a recess was taken
19 from 10:43 a.m. until 10:46 a.m.)

20 MR. WALLACE: We want to state for
21 the record that in response to the
22 pending question, his response would
23 violate the Court Order and therefore, I
24 am directing him not to answer.

25

1 M. Fajardo

2 If he did answer on the record, I
3 am directing that it should be stricken
4 or at least confidential.

5 MR. ZABELL: I'm going to object
6 to both. You don't have the power to
7 strike anything from the record, but you
8 know the avenue that you need to follow
9 if you feel the need to do so.

10 To any designation as
11 confidential, I will not consent.

12 MR. WALLACE: We will raise that
13 with the Court, but I have directed
14 Mr. Fajardo not to answer any questions
15 that would implicate or involve any issue
16 regarding immigration, because that would
17 violate the Court Order in this lawsuit.

18 MR. ZABELL: The Judge's direction
19 was that I am not to question him about
20 his immigration status, not anything
21 further.

22 MR. WALLACE: Right, any answer
23 that would implicate his immigration
24 status.

25 MR. ZABELL: That is something

1 M. Fajardo

2 completely different.

3 MR. WALLACE: And I directed him
4 not to answer.

5 MR. ZABELL: Could you state
6 specifically for the record what you
7 advised your client?

8 MR. WALLACE: I have already said
9 it on the record.

10 I directed my client that there is
11 a protective order regarding immigration,
12 and to respond to any questions that
13 would reveal -- that would pertain to his
14 immigration status is covered by the
15 protective Order by this Court and would
16 violate that, and I have directed him not
17 to answer the questions about immigration
18 status.

19 MR. ZABELL: That is what you
20 specifically advised him?

21 MR. WALLACE: I'm not telling you
22 exactly. I'm telling you on the record
23 what I am saying, I am not going to
24 disclose that.

25 MR. ZABELL: Understand this, to

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M. Fajardo

the extent that you're advising your client not to answer any questions, you do have an obligation to put on the record what those specific directions are. Otherwise, what you're doing is leading to the possibility to advising your client not to answer certain questions that are not covered by the Judge's Order.

If you're giving your client that specific direction, I'll give you the opportunity to make that objection, but make it on the record. Anything else is really not relevant, should not be relevant, and runs the foul of civil procedure.

I'm trying to explain to you as nice as possible, because you asked that, due to cultural misunderstanding, that I speak to you in a more pleasant manner.

MR. WALLACE: I appreciate the civility. I think it's clear what my direction is, and clear what the Judge's Order is, and I will continue to object.

1 M. Fajardo

2 MR. ZABELL: It is not clear to me
3 what your objection is.

4 MR. WALLACE: Let me repeat: My
5 direction is, for the record, that any
6 question pertaining to immigration status
7 regarding the plaintiff is improper and
8 would violate the Court Order, the
9 protective order.

10 The witness also has been advised
11 of the Court Order in this case, the rule
12 that any questions pertaining to
13 immigration status are improper and,
14 therefore, any answer that would pertain
15 to immigration status, also by virtue of
16 the Court Order, would violate the Court
17 Order.

18 Are we clear on the scope of the
19 Court Order and my direction to comply
20 with the Court Order?

21 Q Mr. Fajardo, is that what you were
22 told in the hallway?

23 MR. WALLACE: Objection, don't
24 respond.

25 Q Have I asked you about your

1 M. Fajardo

2 immigration status, Mr. Fajardo?

3 A No.

4 Q Did you prepare for this
5 deposition in any way?

6 A No.

7 Q Did you meet with your attorneys
8 prior to coming into my office today?

9 A Sometimes.

10 Q When was the last time you met
11 with your attorney prior to walking into my
12 office today?

13 A Days ago, but I don't remember
14 when.

15 Q Where did you meet with them?

16 A In their office.

17 Q Where is their office located?

18 A In Manhattan.

19 Q For how long did you meet with
20 them?

21 A For two or three minutes.

22 Q Did you review any documents when
23 you met with them?

24 A Yes, one document.

25 Q What document did you review?

1 M. Fajardo

2 A A charge that Louis Vecchia has
3 put on me.

4 Q What charge was that?

5 A Regarding some money that I owe
6 him and I went to sign, that was it.

7 Q You did that a couple of days ago;
8 is that correct?

9 A Yes.

10 Q Did you pay your attorneys any
11 money?

12 A Not yet, but it depends on the
13 case, because there is another case that I have
14 with him.

15 Q Have you paid them any money on
16 any case?

17 A Yes.

18 Q How much money have you paid them?

19 A \$500.

20 Q When did you pay it to them?

21 A More than -- about a
22 month-and-a-half ago.

23 Q A month-and-a-half ago, are you
24 sure of that?

25 A Something like that, yes.

1 M. Fajardo

2 Q Did you pay it to them in cash or
3 check?

4 A In cash.

5 Q I see. Have you ever gone by any
6 names, other than Maynor Fajardo or Renato
7 Guerra?

8 A No.

9 Q Are you sure?

10 A Yes.

11 Q Do you possess a passport?

12 A Yes.

13 Q How many passports do you possess?

14 A One.

15 Q Where do you live?

16 A 24 Carter Street in Huntington.

17 Q Do you know your zip code?

18 A 11743.

19 Q Do you own or rent?

20 A I rent.

21 Q With whom do you live at 24 Carter
22 Street?

23 A With Edgar Gonzalez, who is the
24 owner of the house.

25 Q Do you live there with anyone

1 M. Fajardo

2 else?

3 A Oh, yes, Johnny Gonzalez, who is
4 the owner's brother, that is it.

5 Q Do you have any children?

6 A Yes.

7 Q How many children do you have?

8 A Three.

9 Q Where do your children live?

10 A At 18 Carter -- I mean, no, excuse
11 me, 18 Third Avenue in Huntington Station.

12 Q How old are your children?

13 A Eleven, 12 and 18 -- no, excuse
14 me, 19, she just turned 19.

15 Q Were those children born in the
16 United States?

17 A Yes.

18 Q Do you have any children that live
19 outside the United States?

20 A No.

21 Q Are you married?

22 A Yes.

23 Q Who is your wife?

24 A Hilda Carranza, C-A-R-R-A-N-Z-A.

25 Do I have to give her full name?

1 M. Fajardo

2 Q Yes.

3 A Hilda-Beatrice Carranza Perez.

4 Q Were you married in the United
5 States?

6 A Yes.

7 Q Do you currently live with her?

8 A No, separated.

9 Q For how long have you been
10 married?

11 MR. WALLACE: Oh, my God.

12 A Since 1998.

13 Q For how long have you been
14 separated?

15 A Seven years.

16 MR. WALLACE: Just a standing
17 objection to the whole line of
18 questioning into his private life.

19 Q What is your nation of origin?

20 A Guatemala.

21 Q When did you come to the United
22 States?

23 A 1992.

24 Q When was the last time you have
25 been to Guatemala?

1 M. Fajardo

2 A In 2007 -- no, 2008, excuse me.

3 Q When in 2008 did you go to
4 Guatemala?

5 A On January 19th.

6 Q For how long did you stay in
7 Guatemala?

8 A One month, because I went to two
9 places.

10 Q What was the second place?

11 A Columbia.

12 Q So you were in Guatemala from
13 January 19th to February 19th?

14 A Yes.

15 Q Then, you went to Columbia from
16 February 19th?

17 A Until March 22nd.

18 Q Why did you go to Guatemala?

19 A Family issues.

20 Q What were those family issues?

21 A Something with my mother. They're
22 private things between my mother and me.

23 Q This was in 2008, correct?

24 A Yes.

25 Q I need to know what those private

1 M. Fajardo

2 things were.

3 MR. WALLACE: No, I am directing
4 him not to respond to that. If you want
5 an answer, you're going to have to go to
6 the Judge.

7 Q You borrowed money from Louis
8 Vecchia or Suffolk Paving Corp. in 2008 during
9 that period of time, didn't you?

10 A Yes.

11 Q You borrowed money for your
12 mother, correct?

13 A Yes.

14 Q What were the personal issues with
15 your mother that you had in 2008?

16 MR. WALLACE: You don't have to
17 answer that.

18 MR. ZABELL: We're going to call
19 the Judge. I'm going to give you two
20 minutes to re-think your position. You
21 may want to talk to co-counsel.

22 MR. WALLACE: It's intrusive, all
23 of this line of questioning is intrusive.
24 This is a wage claim. He is suing for
25 unpaid wages. What the hell has his

1 M. Fajardo

2 issues with his mother in Guatemala have
3 to do with this case?

4 MR. ZABELL: Is there a
5 retaliation claim?

6 MR. WALLACE: It's intrusive. How
7 is it relevant?

8 MR. ZABELL: He was lent money and
9 you said we only sued him because he sued
10 us.

11 MR. WALLACE: How is problems with
12 his mother or issues with his mother
13 going to do with the retaliation claims?

14 MR. ZABELL: We're going to
15 discuss it with the Judge.

16 MR. WALLACE: I think it's
17 invading his private life. It's
18 intrusive. You don't have any right to
19 invade his private life for a lawsuit
20 against your client. It has nothing to
21 do with his lawsuit. So let's call the
22 Judge.

23 Whether he was separated with his
24 wife, where his wife lives or his ex-wife
25 or how many children his has, has nothing

1 M. Fajardo
2 to do with this lawsuit. I permitted the
3 questioning and I think it's bordering on
4 harassment.

5 MR. ZABELL: What you did was a
6 speaking objection, and we're going to
7 bring that up, as well.

8 (Whereupon, Judge Tomlinson was
9 called and the following colloquy was
10 had:)

11 MR. ZABELL: My response to what
12 was the other reason given with regard to
13 this individual needing the money. On
14 two separate occasions, he advised
15 co-workers and the owner of the company
16 that he needed money, A, to come back
17 into the country because he needed the
18 money for some reason to get in, and on
19 another occasion, he said that he needed
20 it to pay for an operation for his
21 mother.

22 We believe both instances to be
23 incorrect, because he relayed to another
24 co-worker that he needed the money,
25 because he was running off to Columbia

1 M. Fajardo
2 with a girlfriend.

3 JUDGE TOMLINSON: I heard enough.
4 I am not permitting this line of
5 questioning to continue. The money was
6 borrowed. You're aware of what was
7 borrowed, what he borrowed the money for.
8 That is sufficiently intrusive here and
9 frankly, with regard to credibility, I'm
10 not convinced by what I'm hearing.

11 MR. ZABELL: If I may, I certainly
12 understand your ruling, but it appears as
13 if your ruling is preventing me from
14 exploring certain credibility issues with
15 this individual where I have a good faith
16 basis to believe they exist. And I'm
17 sorry to do this to you, and I'm not
18 doing this for any other purpose, other
19 than guidance in this deposition.

20 If I am not permitted to test his
21 credibility, then I am not sure what the
22 benefit of this deposition will be when,
23 ultimately, I try this case.

24 JUDGE TOMLINSON: The fact of this
25 deposition is precisely to discover the

1 M. Fajardo

2 facts, the facts with respect to the
3 plaintiffs in the case and your
4 defendants in the case.

5 The fact that he's claiming
6 retaliation because he requested a loan
7 and was given a loan, those are the facts
8 that are relevant here. The reason why
9 he requested the loan, there are ways to
10 test credibility that go with relevance
11 of the plaintiffs and defendants in the
12 case.

13 I find, based on what has been
14 explained to me on this particular issue,
15 and that the plaintiff claims and has
16 been set out there that his mother was
17 ill. If you don't believe it, so be it.
18 But I am not going to permit you to delve
19 further into what was wrong with his
20 mother, her medical records. That is
21 beyond a line that I am not going to
22 allow you to cross.

23 MR. ZABELL: I really -- I'm very
24 sorry for belaboring this.

25 JUDGE TOMLINSON: I'm not dense,

1 M. Fajardo

2 Counsel.

3 MR. ZABELL: I don't think you're
4 dense at all. In fact, quite the
5 opposite, and that is why I am inquiring
6 a little bit further.

7 If he requested this loan under
8 false presences, I don't understand why I
9 would not be able to use that information
10 to attack his credibility, ultimately, in
11 the trial.

12 JUDGE TOMLINSON: You can't attack
13 his credibility of why he requested the
14 loan. You asked him questions about his
15 mother's illness and to her physical
16 condition. I'm not going to allow it.
17 It's a violation of HIPAA, and I don't
18 think it's appropriate.

19 MR. ZABELL: I understand the
20 HIPAA violation. I don't think it would
21 be a HIPAA violation, because his
22 mother's illness was outside the country
23 and jurisdiction of HIPAA.

24 MR. WALLACE: Your Honor --

25 JUDGE TOMLINSON: I made my

1 M. Fajardo

2 ruling, your objection is noted. If you
3 get to another area where attacking his
4 credibility becomes an issue, then call
5 me back.

6 MR. ZABELL: Is it Your Honor's
7 ruling that I cannot question him on the
8 basis for his requesting this loan?

9 JUDGE TOMLINSON: I thought you
10 already raised that question, and he has
11 already given his answer.

12 MR. ZABELL: He said he went to
13 Guatemala because of personal issues with
14 his mother, and I was stopped after I
15 asked him what those personal issues
16 were.

17 Counsel has interpreted that to
18 mean health. I don't know if it's
19 health.

20 MR. WALLACE: Mr. Zabell just
21 stated to you that it was health reasons.

22 MR. ZABELL: I believe,
23 ultimately, he is going to go to health,
24 but we don't know that, he has not said
25 that yet.

1 M. Fajardo

2 JUDGE TOMLINSON: Is the court
3 reporter able to read back the last
4 series of questions to me?

5 MR. ZABELL: She's signifying yes.

6 (Whereupon, the requested
7 testimony was read back by the court
8 reporter.)

9 MR. WALLACE: I asked Mr. Zabell
10 where he was going to go with this, and
11 he didn't really want to indicate where
12 he wanted to go with this.

13 MR. ZABELL: It depends on the
14 answer.

15 JUDGE TOMLINSON: So you may ask
16 him the leading question, which I will
17 permit, but with regards to the private
18 things that he has made reference to, an
19 issue of his mother's health, if he says
20 yes, then move on.

21 MR. ZABELL: Thank you, Your
22 Honor. While we have you on the phone,
23 we encountered another issue, not
24 adversarial, but we want to advise Your
25 Honor of it.

1 M. Fajardo

2 Your Honor's previous Order in
3 this case made reference to making the
4 computers that were originally seized by
5 the District Attorney's office available
6 for inspection. We have done that, but
7 the problem is they're not booting up
8 beyond the initial screen.

9 Counsel and I have agreed to make
10 alternate arrangements to address that,
11 but we want to advise Your Honor, because
12 Counselor is going to view it beyond the
13 specific timeframe of your Order.

14 JUDGE TOMLINSON: Thank you for
15 letting me know that. I'll be here the
16 rest of the day if something else comes
17 up.

18 MR. ZABELL: Thank you.

19 (Whereupon, the call was
20 concluded.)

21 Q Mr. Fajardo, before taking that
22 break, you were telling me that you went to
23 Columbia because of family issues with your
24 mother.

25 A No.

1 M. Fajardo

2 Q Were they personal issues with
3 your mother?

4 A In Guatemala.

5 Q Were those personal issues
6 health-related?

7 A Yes.

8 Q So you went to Guatemala between
9 January 19th and February 19th; is that correct?

10 A I don't remember if it was the
11 19th, but it was from -- I left here in January.
12 When I went to Columbia, I don't know.

13 Q Why did you go to Columbia after
14 you went to Guatemala?

15 A Personal things of mine.

16 Q What were those personal things of
17 yours?

18 A To see my girlfriend.

19 Q You stayed in Columbia through
20 March of 2009; is that correct?

21 A No, 2008.

22 Q For how many months did you stay
23 in Columbia?

24 A One month.

25 Q During that period of time, you

1 M. Fajardo

2 borrowed money from Suffolk Paving; is that
3 correct?

4 A Yes.

5 Q How much did you borrow?

6 A He gave me two loans; one for
7 \$8,000 and \$8,500, I think the other one was.

8 Q One for \$8,000 and one for \$8,500?

9 A Yes.

10 Q When did he loan you the first
11 loan?

12 A I don't recall, but it was in
13 January.

14 Q January of 2008?

15 A Yes.

16 Q Why did he loan you \$8,000 in
17 January of 2008?

18 A Because I needed it.

19 Q What did you need it for?

20 A Family issues.

21 Q What family issues?

22 A About my mother's case.

23 Q What case are you referring to?

24 A Her health.

25 Q So you borrowed \$8,000 for your

1 M. Fajardo

2 mother's health?

3 A Yes.

4 Q You need to answer yes or no. The
5 court reporter can't take down a grunt, you
6 understand?

7 A Yes.

8 Q Did you use that entire \$8,000 to
9 pay a medical bill for your mother?

10 A Yes.

11 Q Where did you pay that medical
12 bill?

13 A My older brother took care of
14 that.

15 Q What is your older brother's name?

16 A Virgio Giovanni Fajardo.

17 Q So you gave \$8,000 to your
18 brother?

19 A Yes.

20 Q Do you know what your brother used
21 that money for, exactly?

22 MR. WALLACE: Objection, asked and
23 answered.

24 You can answer for the fifth time.

25 A Yes, for my mother's health.

1 M. Fajardo

2 Q What was it used for,
3 specifically?

4 MR. WALLACE: Objection.

5 You're breaching the Court Order.

6 Q Was it used for medical bills?

7 A Yes.

8 Q Was any part of it used for
9 anything, other than medical bills?

10 MR. WALLACE: Objection.

11 A No.

12 Q Did you personally see those
13 medical bills?

14 A No.

15 Q You just believed your brother?

16 A Yes. Because there are six of us,
17 and the six of us put in money so my mother
18 could be operated on -- I didn't say operated, I
19 said for her to feel better, her health.

20 Q Your mother was located in
21 Guatemala at that time?

22 A Yes.

23 Q You borrowed an additional \$8,500
24 from defendants, did you not?

25 A Yes.

1 M. Fajardo

2 Q When did you borrow that?

3 A At the same time.

4 Q Why did you borrow that?

5 A Because I needed it for expenses.

6 Q What type of expenses?

7 A Regarding my trip.

8 Q So you needed it for personal
9 expenses?

10 A Yes.

11 Q Can you please explain to me what
12 those personal expenses are?

13 A Can I answer that?

14 Q You must answer that.

15 A Regarding my trip -- regarding my
16 trip, I had to pay for the plane, food, my
17 phone, too, and I had to leave money with my
18 children before leaving.

19 Q So you borrowed \$8,500 for a
20 vacation?

21 MR. WALLACE: Objection,
22 mischaracterization of his testimony.

23 A It was not a vacation.

24 Q Was it a vacation in Guatemala
25 from January to February?

1 M. Fajardo

2 A No.

3 Q What about when you went to see
4 your girlfriend in Columbia from February to
5 March?

6 A That was like a vacation, but it
7 was not a vacation.

8 Q Why was it not a vacation?

9 A Because I went to my girlfriend's
10 house, not to go around.

11 Q So you borrowed money to go to
12 your girlfriend's house?

13 A No.

14 Q How much of the \$16,500 have you
15 paid back?

16 A I didn't pay anything back because
17 he took the Lincoln Navigator, 2003, away from
18 me.

19 Q So you borrowed \$16,500 from
20 defendants, correct?

21 A Yes.

22 Q You took that money from them?

23 MR. WALLACE: Objection, asked and
24 answered.

25 A Yes.

1 M. Fajardo

2 Q You never paid it back?

3 A No.

4 Q Correct?

5 A No. Because he took away the
6 truck that I had.

7 Q Did you have an agreement that you
8 didn't have to pay that money back?

9 A He never said anything about the
10 money, and when he took away my truck, he said
11 that he still owed me.

12 Q You bought a truck from the
13 defendants, did you not?

14 A Yes.

15 Q When did you buy a truck from
16 defendants?

17 A In 2004.

18 Q What type of truck was that?

19 A A Lincoln Navigator.

20 Q What was the year of that Lincoln
21 Navigator?

22 A 2003.

23 Q In 2004, you bought a year-old
24 Lincoln Navigator?

25 A Yes.

1 M. Fajardo

2 Q How much did you pay for that
3 Lincoln Navigator?

4 A About three years, I paid about
5 \$32,000.

6 Q What was the agreed-upon price of
7 that car?

8 A \$46,000.

9 Q You agreed to buy that vehicle for
10 \$46,000, correct?

11 A Yes.

12 Q Did you pay \$46,000 for that
13 vehicle?

14 A I didn't pay them because he took
15 the truck away.

16 Q When did he take the truck away?

17 A When I was in Columbia or in
18 Guatemala.

19 Q So he took that truck away in
20 2009?

21 A Yes -- no, 2008, the same year
22 that I left.

23 Q The same year that you left what?

24 A To Guatemala.

25 Q So you had that Lincoln Navigator

1 M. Fajardo

2 for five years?

3 A Yes.

4 Q How much did you pay for that
5 Lincoln Navigator in the five years?

6 A \$32,000.

7 Q So you owed \$14,000, plus interest
8 on that Lincoln Navigator, correct?

9 A No, I don't owe anything.

10 Q If you bought the vehicle for
11 \$46,000 and you only paid \$32,000 for it, don't
12 you owe money on it?

13 A No, because when I asked him for a
14 raise, he told me to keep the truck and that he
15 was not going to charge me for the truck.

16 Q Do you have that in writing?

17 A No.

18 Q You owe \$14,000 for the truck and
19 \$16,500 for the loan; is that correct?

20 MR. WALLACE: Objection,
21 mischaracterizing the testimony.

22 A No.

23 Q You borrowed \$16,500, correct?

24 A Yes.

25 Q You did not pay that back,

1 M. Fajardo

2 correct?

3 A No, because I had to pay -- I gave
4 the truck in exchange for the money that I owed
5 him.

6 Q But you still owed money on the
7 truck?

8 A Yes, but he kept the truck.

9 MR. WALLACE: For the record,
10 Mr. Zabell is sort of staring at the
11 witness without saying anything.

12 MR. ZABELL: I disagree with the
13 characterization. Now I'm staring at
14 you.

15 What did he say?

16 THE INTERPRETER: He said, "he was
17 looking like this without speaking."

18 MR. WALLACE: I was translating to
19 the client.

20 MR. ZABELL: When you coach your
21 client, coach him in English.

22 MR. WALLACE: I'm translating
23 because you're not letting the translator
24 translate what I am saying for the
25 record.

1 M. Fajardo

2 I think it's unfair that you are
3 saying things that he does not
4 understand. If you will allow the
5 translator to translate what I am saying
6 and my objections on the record, then we
7 wouldn't have this issue, and I would not
8 have to translate to my client.

9 MR. ZABELL: Ian, I would like
10 very much for you to remain silent.

11 MR. WALLACE: Ain't going to
12 happen, ain't going to happen. Proceed.

13 Q You borrowed \$16,500 from
14 defendants; is that correct?

15 A Yes.

16 Q Half of that was for your trip to
17 see your girlfriend in Columbia, correct?

18 MR. WALLACE: Objection.

19 A No.

20 Q You said that you borrowed \$8,000
21 for your mother's medical issues, correct?

22 A Yes.

23 Q And you gave that to your brother?

24 A Yes.

25 Q Without looking at any bills or

1 M. Fajardo

2 invoices, correct?

3 A Yes.

4 Q You borrowed another \$8,500 to
5 cover your plane fare, your telephone, and to
6 give money to your kids before you left; is that
7 correct?

8 A Yes.

9 Q You have no documentation
10 indicating that you paid any of that \$16,500; is
11 that correct?

12 MR. WALLACE: Objection.

13 A No.

14 Q No, you have no documentation?

15 A No.

16 Q You understand that you're being
17 sued for the money that you were lent?

18 A No, not regarding that money.

19 Q What do you think you're being
20 sued for?

21 A Because my ex-boss says that he
22 lent me \$42,000 to buy a Lincoln Navigator, when
23 he was the one that gave me the actual truck.

24 Q Well, has it been explained to you
25 that you're being sued for your failure to pay

1 M. Fajardo

2 for that Lincoln Navigator?

3 A Yes.

4 Q By your own admission, you did not
5 pay for the entire amount of that Lincoln
6 Navigator; is that correct?

7 A No, I didn't pay completely, no.

8 Q There came a time that you stopped
9 making payments on that Lincoln Navigator,
10 correct?

11 A Yes.

12 Q When did you start making payments
13 on that Lincoln Navigator?

14 A I don't recall.

15 Q How did you make payments on that
16 Lincoln Navigator?

17 A Cash.

18 Q Do you have any receipts
19 indicating that you made any?

20 A No.

21 Q Do you know how many cash payments
22 you made?

23 A How many, no. But in three
24 years -- I maybe stopped paying after three
25 years -- excuse me, within three years. I maybe

1 M. Fajardo

2 didn't pay five months, but I don't remember
3 which months they were.

4 Q Why didn't you pay for five
5 months?

6 A Because the lack of work, my boss
7 knew about it, and I explained it to him and he
8 always accepted.

9 Q So you could not afford to make
10 the payments?

11 A No.

12 Q No, you could not afford it?

13 A Yes. But when there was no work,
14 I couldn't, and I would explain it to him.

15 Q There were periods of time during
16 the year where you could not afford to make
17 payments?

18 A Yes.

19 Q You could not afford the vehicle?

20 MR. WALLACE: Objection.

21 Q You may answer.

22 A Yes.

23 Q Are you familiar with the term
24 repossession?

25 A No.

1 M. Fajardo

2 Q Do you know that if you buy
3 something on credit and you can't afford it,
4 then the company has the right to take that
5 thing back?

6 MR. WALLACE: Objection.

7 You can answer.

8 A Yes.

9 Q Is that what happened with the
10 Lincoln Navigator?

11 A No.

12 Q What happened to the Lincoln
13 Navigator?

14 A When I was in Guatemala, my boss
15 thought I was not going to return, and he said
16 he was going to take the truck. When I
17 returned, he said that he took the truck,
18 because he said that he thought that I was not
19 going to return.

20 And when I said that I paid him so
21 much, wasn't what I owed him, he said that then,
22 he stilled owed me.

23 Q Do you not think that you still
24 owe him?

25 A No.

1 M. Fajardo

2 Q Did you take steps to get current
3 on your payments on the vehicle?

4 A Yes, I did a lot to be up-to-date
5 with my payments.

6 Q But you weren't up-to-date on your
7 payments?

8 A No, not for a certain time.

9 Q Did you make payments on the
10 vehicle when you were in Columbia?

11 A No.

12 Q Did you make payments?

13 A No, because during that time, he
14 had already said that the truck was already
15 mine, that I didn't have to pay him anything
16 else.

17 Q You just said that you still owed
18 him money on that vehicle?

19 MR. WALLACE: Objection.

20 Q Did you not?

21 A No, I don't owe him money.

22 Q But you just said that you owe him
23 money?

24 A The \$8,000 that he lent me, he
25 said that he was going to take the truck in

1 M. Fajardo

2 exchange and that he still owed me, because when
3 I came from Columbia, he still owed me. He gave
4 me \$2,000.

5 Q When did he give you \$2,000?

6 A When I came here because I had to
7 pay something that he knew about, an attorney.

8 Q Explain to me what you had to pay.

9 A An attorney.

10 Q About what?

11 A Personal thing about my trip.

12 MR. WALLACE: Don't respond to
13 that.

14 Q Is it about immigration?

15 A Yes, he knew, Louis knows.

16 Q So he lent you \$8,000 for your
17 mother?

18 MR. WALLACE: Asked and answered.

19 You can answer this for the tenth time.

20 A Okay.

21 Q Yes?

22 A Yes.

23 Q Then, he lent you \$8,500 to cover
24 all of your trip expenses?

25 MR. WALLACE: Objection,

1 M. Fajardo

2 mischaracterization of his testimony.

3 You can answer.

4 A Yes.

5 Q Then, he lent you another \$2,000?

6 A No, he didn't lend those to me.

7 He paid those to me because he still owes me.

8 Q So there is \$8,500, \$8,000, then
9 there's \$2,000, correct?

10 A Yes.

11 Q That adds up to \$18,500?

12 A Why \$18,000? I owed him the
13 \$16,500. Those \$2,000 he gave me as a payment
14 for what he took for the truck.

15 Q When did he give you that \$2,000?

16 A When I just returned.

17 Q So he gave you \$18,500 during that
18 three-month period?

19 A No, not three months.

20 Q How many months?

21 A The \$2,000 he gave me after
22 seven months when I was here.

23 Q Didn't you just say he gave it to
24 you when you came back?

25 A When I returned from Columbia, it

1 M. Fajardo

2 was seven months.

3 Q You were in Columbia for seven
4 months?

5 A I said when I returned to work
6 with him seven months later.

7 Q Seven months after you started
8 coming back?

9 MR. WALLACE: Objection.

10 Q You can answer.

11 A Yes.

12 Q Do you recall the month?

13 A Yes, August.

14 Q Do you know why you're suing the
15 defendants?

16 A Yes.

17 Q Why are you suing him?

18 A For my overtime hours.

19 Q How many overtime hours are you
20 suing for?

21 A Quite a lot.

22 Q How many?

23 A The truth is that I don't know,
24 but I know that it was sixteen, seventeen hours
25 per week.

1 M. Fajardo

2 Q What months of the year did you
3 work for?

4 A It depends on the year. There
5 were years that I worked the whole year, and
6 there were years where I only worked ten months.

7 Q In 2003, how many months did you
8 work out of the year?

9 A I think it was the whole year.

10 Q Do you think or do you know?

11 A I think, but I don't remember.

12 Q Is there anything that you can
13 look at that will tell you?

14 A Yes, in my check stubs.

15 Q Where are your check stubs?

16 A At home.

17 Q Did you provide all of your check
18 stubs to your Counsel?

19 A Yes.

20 Q Do you have your check stubs for
21 every week that you worked?

22 A No.

23 Q Why not?

24 A Because I have a case with
25 immigration.

1 M. Fajardo

2 MR. WALLACE: For the record,
3 you're not allowed to say anything about
4 immigration.

5 A I don't have my check stubs,
6 because my other attorney has them.

7 Q Did you request copies of those
8 check stubs from your other attorney?

9 A No.

10 MR. ZABELL: Let's go off the
11 record for a moment.

12 (Whereupon, a discussion was held
13 off the record.)

14 MR. WALLACE: For the record,
15 regarding the pay stubs, Mr. Fajardo has
16 provided them to me, my office, with all
17 his pay stubs with the sole exception of
18 some pay stubs that his wife took with
19 her, the wife that he is now separated
20 from.

21 Q Why did your wife take those pay
22 stubs?

23 A Because she needed them.

24 Q What did she need them for?

25 A Child support.

1 M. Fajardo

2 Q Are you paying child support?

3 A Yes.

4 Q Can you get those checks back from
5 the wife that you're now separated from?

6 A I will speak to her.

7 MR. ZABELL: I'm going to ask you
8 to do so, and when you get them, I'm
9 going to ask that you provide those check
10 stubs to your attorney.

11 THE WITNESS: Okay.

12 MR. ZABELL: And when you do and
13 he turns that over to me, right, then, we
14 will continue this deposition if there is
15 a need to do so.

16 MR. WALLACE: Once you get those
17 other pay stubs -- can you repeat what
18 you just said?

19 MR. ZABELL: What I asked him to
20 do is get these stubs from his wife, he
21 will provide that to you, you will then
22 provide them to me, and if there is a
23 need to continue this deposition
24 thereafter, we will do so.

25 MR. WALLACE: I am not agreeing to

1 M. Fajardo

2 that.

3 MR. ZABELL: Are you agreeing to
4 provide the documents?

5 MR. WALLACE: Yes.

6 MR. ZABELL: Are you agreeing to
7 follow up with him?

8 MR. WALLACE: Yes.

9 MR. ZABELL: Very good. Then, we
10 can continue.

11 Q In 2003, did you collect
12 unemployment benefits?

13 A No.

14 Q Did you ever collect unemployment
15 benefits from 2003 going forward?

16 A Only in 2010.

17 Q Are you currently working?

18 A Yes.

19 Q For whom are you currently
20 working?

21 A Pioneering Paving Asphalt.

22 Q When did you start working for
23 Pioneering Paving Asphalt?

24 A April 4th.

25 Q Of what year?

1 M. Fajardo

2 A 2009.

3 Q What name did you provide to
4 Pioneering Paving Asphalt that you go by?

5 A Maynor Renato Fajardo.

6 Q In 2003, who was your employer?

7 A Suffolk Paving.

8 Q In 2004, who was your employer?

9 A Suffolk Paving.

10 Q In 2005, who was your employer?

11 A Suffolk Paving.

12 Q In 2006, who was your employer?

13 A Suffolk Paving.

14 Q In 2007, who was your employer?

15 A Suffolk Paving.

16 Q In 2008, who was your employer?

17 A Suffolk Paving.

18 Q In 2009, who was your employer?

19 A Pioneering Asphalt -- oh, no, hold
20 on. In 2009, I still worked with Suffolk
21 Paving, and I started in April of 2010 with
22 Pioneer.

23 Q When did you stop working for
24 Suffolk Paving?

25 A In September.

1 M. Fajardo

2 Q September of what year?

3 A 2009.

4 Q Do you know who owns Suffolk
5 Paving?

6 A Yes, Louis Vecchia.

7 Q Are you finished answering?

8 A Yes.

9 Q Do you have any reason to believe
10 anybody else owns Suffolk Paving, other than
11 Louis Vecchia?

12 A No.

13 Q Every week that you worked for
14 Suffolk Paving, did you receive a paycheck?

15 A Yes.

16 Q Did you ever receive cash
17 payments, in addition to your check?

18 A Sometimes, it depends, as well.

19 Q How often would you receive cash
20 payments, in addition to your paycheck?

21 A Not much.

22 Q What does "not much" mean?

23 A Maybe about ten times in all.

24 Q Do you know how much cash you
25 received on those ten times?

1 M. Fajardo

2 A Sometimes he would give me \$100,
3 sometimes \$200, yes.

4 Q How much did you make an hour
5 working for Suffolk Paving in 2003?

6 A In 2003, I think I earned about
7 \$49 in prevailing wage, and regular, I think he
8 paid me \$32. I don't remember really very well.

9 Q You earned \$49 a day?

10 A An hour.

11 Q So you're not sure, but you either
12 made \$49 or \$32 an hour?

13 A Regular was his hour and
14 prevailing wage was when we did government work.

15 Q That's a lot of money?

16 MR. WALLACE: Objection.

17 A Yes.

18 Q You agree?

19 A Yes.

20 Q It was good money, right?

21 A Yes.

22 Q Did you ever get paid overtime?

23 A Sometimes.

24 Q When you got paid overtime, it
25 would be time-and-a-half, correct?

1 M. Fajardo

2 A Sometimes he paid time-and-a-half,
3 and there were times when he paid -- out of
4 ten hours, he would pay one or two hours.

5 Q So sometimes you would work ten
6 hours and you would get one or two hours
7 overtime?

8 MR. WALLACE: Objection, it's a
9 mischaracterization of his testimony.

10 A No.

11 Q You said out of ten hours, you
12 would get paid one or two hours, correct?

13 A Sometimes in a week, we worked ten
14 hours a week, and sometimes he would pay us one
15 or two hours.

16 Q Overtime, correct?

17 A Yes.

18 Q In 2004, what was your hourly
19 wage?

20 A I don't recall. I think it was
21 the same.

22 Q In 2005, what was your hourly
23 wage?

24 A I don't recall, the same, \$48.

25 Q In 2006, what was your hourly

1 M. Fajardo

2 wage?

3 A The same, because it was union and
4 prevailing wage.

5 Q What was it?

6 A About \$48, \$49.

7 Q In 2007, what was your hourly wage
8 rate?

9 A The same, about \$48, \$49.

10 Q In 2008, what was your hourly wage
11 rate?

12 A \$48 and \$49.

13 Q In 2009, what was your hourly wage
14 rate?

15 A \$48, \$49.

16 Q So your hourly wage rate never
17 went up?

18 A No. Because I don't know what
19 kind of operator he paid me, because sometimes
20 he paid me \$48 and sometimes \$49.

21 Q From 2003 to 2009, your hourly
22 rate never increased?

23 A No.

24 Q Did you ever take a look at your
25 pay stub?

1 M. Fajardo

2 A Yes.

3 Q Were there any deductions from
4 your pay?

5 A Yes.

6 Q What were the deductions for?

7 A I don't know. I only know that
8 there was for vacation, for union, all of that.

9 Q Do you think that those deductions
10 were appropriate?

11 MR. WALLACE: Objection.

12 A Yes.

13 Q What year did you join the union?

14 A 2007.

15 Q Before you joined the union, you
16 would get your supplemental benefits paid to
17 you, correct?

18 MR. WALLACE: Objection, you can
19 answer.

20 A I don't recall.

21 Q After you joined the union, your
22 supplemental benefits are paid to the union?

23 A Yes.

24 Q Do you how much an hour your
25 supplemental benefits were?

1 M. Fajardo

2 A No.

3 Q Was it a substantial amount?

4 MR. WALLACE: Objection.

5 A I don't recall.

6 MR. ZABELL: You know you have a
7 standing objection to the form of the
8 question.

9 MR. WALLACE: There is no standing
10 objection to form.

11 MR. ZABELL: Do you want a
12 standing objection? This way you don't
13 have to whisper back and forth to each
14 other.

15 MR. WALLACE: No, I would rather
16 indicate when I object.

17 MR. ZABELL: If you're going to do
18 that, that's fine, just no whispering
19 back and forth, it's distracting.

20 MR. WALLACE: Like you and your
21 client were all day.

22 MR. ZABELL: It's my deposition.

23 MR. WALLACE: I can talk to my
24 colleague any time I'd like.

25 MR. MCNAMARA: I'll be more vocal.

1 M. Fajardo

2 Q What specific tasks and duties did
3 you perform for Suffolk Paving?

4 A Operator and in charge of the
5 group.

6 Q In charge of what group?

7 A The paving crew.

8 Q Who was in your crew?

9 A Sometimes they would give me
10 different people, but most of the time, I had
11 Carlos Escalante and Nelson Quintanilla, Lerly
12 Rodriguez, Ronald, but I don't know his last
13 name, Marcus Tulio, and there was someone else
14 whose name was Jose.

15 They would always change the
16 people, so it's difficult for me to remember.

17 Q Were you provided with a company
18 vehicle?

19 A Yes, they gave me a vehicle.

20 Q What kind of vehicle did they give
21 you?

22 A A pick-up.

23 Q What kind of pick-up?

24 A A Ford.

25 Q What year was it?

1 M. Fajardo

2 A I don't know, because sometimes
3 they would give me a truck that the mechanic
4 used, and sometimes they would give me that
5 truck.

6 Q And you would take that pick-up
7 truck home with you that day?

8 A Not me.

9 Q Never?

10 A No. The driver that drove it, he
11 would take it to his house.

12 Q Who was the driver that drove it?

13 A Sometimes Walter drove, sometimes
14 Carlos Escalante drove, and sometimes Lerly
15 Rodriguez drove.

16 Q There were always tools in the
17 back of that truck?

18 A Yes.

19 Q That truck would pick you up from
20 home?

21 A Yes.

22 Q It would take you directly to the
23 worksite?

24 A Sometimes to the job and sometimes
25 to the yard.

1 M. Fajardo

2 Q At that time you had your own
3 vehicle, correct?

4 A Yes.

5 Q What was your vehicle at that
6 time?

7 A It was a Honda Accord.

8 Q You could have driven your vehicle
9 directly to the job site, correct?

10 A Yes.

11 Q In fact, you were told that you
12 could drive to the worksite?

13 MR. WALLACE: Objection.

14 A Yes.

15 Q But sometimes you chose to go to
16 the shop?

17 MR. WALLACE: Objection.

18 A Yes. There were reasons for
19 having to go to the yard.

20 Q But you could have driven directly
21 to the worksite?

22 A Yes.

23 Q Counsel put that picture in front
24 of you.

25 Do you see that?

1 M. Fajardo

2 A Yes.

3 Q Did Counsel show you that picture
4 before today's deposition?

5 A No.

6 Q It was just sitting in front of
7 you for no reason this morning?

8 A This morning, yes.

9 Q When did Counsel show that to you?

10 A Today.

11 Q Before this deposition?

12 A Here, when we got here.

13 Q What time did you get here this
14 morning?

15 A At 9:00.

16 Q What time did your Counsel get
17 here this morning?

18 A At 10:00.

19 Q Would you characterize that as
20 being rude?

21 A No, because he called me.

22 Q What did he call you?

23 A He called me to let me know that
24 he was going to arrive a little late.

25 Q Do you know an individual by the

1 M. Fajardo

2 name Pracelis Mendez?

3 A Yes.

4 Q Do you know if he was lent any
5 money by Suffolk Paving?

6 A I don't know.

7 Q Did you ever ask him?

8 A No.

9 Q Did you ever talk to him about
10 this case?

11 A No. We've spoken regarding the
12 problems that are going on, but that is it.

13 Q What problems that are going on?

14 A Regarding the days that we have to
15 go to court, because he is the one that let's us
16 know sometimes.

17 Q He's the ringleader?

18 MR. WALLACE: Objection.

19 A Yes.

20 Q Was it his idea to start this
21 lawsuit?

22 A I don't know.

23 Q Whose idea was it to start this
24 lawsuit?

25 A I think it was everyone.

1 M. Fajardo

2 Q Who is "everyone"?

3 MR. MCNAMARA: Objection.

4 A I don't know.

5 Q Did you?

6 A No.

7 Q When did you stop working for
8 Suffolk Paving?

9 A September 2009.

10 Q Why did you stop working for
11 Suffolk Paving?

12 A Because they told me that they
13 didn't need me.

14 Q Who said they no longer needed
15 you?

16 A The dispatcher, Tommy.

17 Q Did you have a fight with Tommy?

18 A No. I was calling him for three
19 days, and the third day, he told me that they
20 had let me go.

21 Q What days did you call him?

22 A I don't remember the dates, but I
23 was calling him. I worked up to Wednesday, I
24 don't remember the date. I received my check on
25 Thursday, there was no work.

1 M. Fajardo

2 On Friday, I called and they told
3 me there was no work. On Monday, I called and
4 they said they no longer needed me.

5 Q Do you know why they said that?

6 A No.

7 Q Do you have an idea why they said
8 that?

9 A No.

10 Q Did Tommy tell you to speak to
11 Louis Vecchia?

12 A No. He told me that -- look for
13 Louis and to come to an agreement with him.

14 Q Did you?

15 A He never answered the phone.

16 Q You're saying that you called him?

17 A Once.

18 Q When did you call him?

19 A I called him on a Friday.

20 MR. WALLACE: Objection.

21 Who is he?

22 THE WITNESS: Louis Vecchia.

23 Q What number did you call him on?

24 A 365-5232.

25 Q You called him on a Friday?

1 M. Fajardo

2 A Yes.

3 Q Did you leave a message for him?

4 A No.

5 Q You didn't leave a message?

6 A No.

7 Q Did you want him to call you back?

8 A Yes, he knew my number, he knew I
9 was calling him.

10 Q How did he know if you didn't
11 leave a message?

12 A Because my name would come up on
13 his phone.

14 Q How do you know that?

15 A Because I have the same phone that
16 he had.

17 Q Who gave you that telephone?

18 A It was mine personally.

19 Q Did Suffolk Paving ever provide
20 you with the telephone?

21 A They gave me a radio and sometimes
22 I had the phone and sometimes I didn't have the
23 phone.

24 Q Were you a foreman?

25 A Yes.

1 M. Fajardo

2 Q Do you know what that means?

3 A Yes.

4 Q And was your work ever criticized
5 when you worked at Suffolk Paving?

6 A No.

7 Q No one ever complained about your
8 work?

9 A No.

10 Q The document you have in front of
11 you has been previously identified as
12 Defendants' Exhibit 5.

13 Do you see that?

14 A Okay.

15 Q Before today, did you ever see
16 that document?

17 A The first one, the second one,
18 that is it.

19 MR. WALLACE: Listen to the
20 question.

21 Q Did you ever see any of the
22 documents or the posters on this document?

23 A Only the two posters.

24 Q Which two?

25 A The one and the two.

1 M. Fajardo

2 Q So the first two on the document?

3 A Yes.

4 Q Do you read English?

5 A Yes.

6 Q Do you speak English?

7 A Yes.

8 Q How well?

9 A 50/50.

10 Q Did Louis Vecchia ever tell you
11 that you were making mistakes on a job site?

12 A Every day.

13 Q Were you making mistakes on job
14 sites?

15 A Not that we knew of.

16 Q You never made any mistakes?

17 A We make mistakes, everyone makes
18 mistakes.

19 Q So you did make mistakes?

20 A Sometimes.

21 Q Didn't you get upset when Louis
22 Vecchia would complain to you that you were
23 making mistakes?

24 A Yes.

25 Q Didn't he tell you that you

1 M. Fajardo

2 weren't working efficiently?

3 A No.

4 Q Didn't he complain to you about
5 your work on a job site and you got angry at him
6 and you just left the job site?

7 MR. WALLACE: Objection.

8 A I never left the job site.

9 Q Didn't what I just ask you happen?

10 MR. WALLACE: Objection.

11 A No.

12 Q Did you ever get into an argument
13 with Louis Vecchia?

14 A Yes, once.

15 Q Was that not the last day that you
16 worked?

17 A No.

18 Q When did you get into an argument
19 with Louis Vecchia?

20 A It was sometime before when I
21 arrived late and he had another person in
22 charge, because the day before, we had worked
23 late, and we had only done 250 tons, and he was
24 angry because I arrived late and he grabbed me
25 like this (indicating) and he pushed me.

1 M. Fajardo

2 Q Did you call the police?

3 A No. Because he grabbed me in the
4 truck and he said, let's go around because he
5 said that he has problems and that I had to
6 understand and he asked that he -- that I had
7 asked -- he asked to be excused.

8 Q From you?

9 A Yes.

10 MR. WALLACE: He said sorry.

11 MR. ZABELL: Stop, you're not
12 testifying, remember that.

13 Q Did anybody else see him push you?

14 A Yes.

15 Q Who?

16 A Carlos Escalante, Edwin Rivera and
17 I think Mario Flores, but Mario Flores is not
18 here.

19 Q This was all in a truck that they
20 saw this happen?

21 A No, outside.

22 Q Didn't you just say this happened
23 in the truck?

24 MR. WALLACE: Objection.

25 A No. I got there late and he was

1 M. Fajardo

2 angry that day.

3 Q How did that make you feel?

4 A I felt bad. I was going to leave.
5 And he stopped me and he said that he was sorry
6 because of the way he acted with me. So we went
7 to the truck with him to see the work that was
8 there, and that day, I didn't work on the
9 machine. It was another person in charge of
10 his. The only name that I remember is Jack.

11 Q Did that bother you that Jack was
12 doing the work?

13 A No. Because my work was to do the
14 screw and then, I would help him with the rake
15 and the shovel.

16 Q What year did this occur?

17 A I think it was 2005, 2006, around
18 there.

19 Q What month was this?

20 A I don't recall.

21 Q Was that the only time you were
22 late to work?

23 A Yes.

24 Q You were only late to work once
25 throughout your entire employment with Suffolk

1 M. Fajardo

2 Paving?

3 A Yes. Because I almost always had
4 to be at work before anyone else.

5 Q Sometimes you would show up on the
6 job site first and sometimes at the shop?

7 A Yes.

8 Q When you would show up directly at
9 the job site, you would have a company vehicle,
10 correct?

11 A Yes.

12 Q Do you know if that company
13 vehicle had GPS?

14 A Yes. I think sometimes they put
15 it in.

16 Q That GPS would tell us the time
17 that you would get to the job site?

18 MR. WALLACE: Objection.

19 A Yes.

20 Q Did you consider your work day to
21 start when you would go to 7-Eleven to get
22 coffee?

23 MR. WALLACE: Objection.

24 A No.

25 Q Would you consider your day to

1 M. Fajardo

2 start when you would go to a deli to get a
3 sandwich?

4 MR. WALLACE: Objection.

5 A Yes.

6 Q So would the other workers;
7 correct?

8 MR. WALLACE: Objection.

9 A Yes.

10 Q That would be before you started
11 work, correct?

12 MR. WALLACE: Objection.

13 A Yes.

14 Q You're not including that time in
15 the period of time that you want to get paid
16 for?

17 A Yes.

18 Q Yes, you are looking for that
19 time?

20 A No.

21 Q The only time you're looking to be
22 compensated for is the time you were actually
23 working on the job site?

24 MR. WALLACE: Objection.

25 A Yes.

1 M. Fajardo

2 Q Some job sites you would have to
3 sign in and out of, correct?

4 A Oh, yes, sometimes.

5 Q And some job sites had an
6 inspector there from the municipality that would
7 keep track of when you came to work, correct?

8 A Yes, sometimes.

9 Q And when the inspector was there,
10 you could trust the inspectors' sign-in and
11 sign-out sheet?

12 MR. WALLACE: Objection.

13 A Well, I don't know, because I
14 don't know if he kept our record.

15 Q Did Louis Vecchia ever lie to you?

16 A At the beginning, no.

17 Q My question is: Did he ever lie
18 to you?

19 A Well, at first, no, but then
20 afterwards, he would say some things and
21 sometimes he would say others.

22 Q What lies would he tell you?

23 A For example, when they said they
24 didn't need my work, they said that I worked
25 very slowly, yes.

1 M. Fajardo

2 Q Is that it?

3 A Yes.

4 Q Did you ever lie to Louis Vecchia?

5 A No.

6 Q Mr. Fajardo, you understand that
7 you're under oath?

8 A Yes. I always told him the truth
9 about whatever I needed and everything that I
10 did.

11 Q What about the hours that you
12 worked?

13 A No, I never lied to him.

14 Q You understand that you're under
15 oath today?

16 MR. WALLACE: Objection.

17 Q And the testimony that you give
18 today under oath is the equivalent of giving
19 testimony under oath at a hearing or at a trial?

20 A Yes.

21 Q There are penalties for telling
22 untruths at a deposition or a trial.

23 MR. WALLACE: Objection.

24 Q Do you understand that?

25 A Yes.

1 M. Fajardo

2 Q What time would you start to work
3 on a job?

4 A It depends because sometimes they
5 would tell us 5:00 at the yard, sometimes they
6 would say 6:30 at the job and sometimes when we
7 went to the City, we went earlier, like 4:30.

8 Q So your start times were anywhere
9 between 4:30 and 6:30 in the morning, correct?

10 A When we went to the yard, yes.

11 Q When you didn't go to the yard,
12 what time would you start?

13 A I started at 5:30, because I had
14 to go and mark lines.

15 Q So you started work everyday
16 between 4:30 in the morning and 6:30 in the
17 morning?

18 A Not everyday.

19 Q What was the range that you
20 started work every morning?

21 MR. WALLACE: You're not
22 listening. You have to allow her to
23 finish the question. (Speaking Spanish.)

24 MR. ZABELL: What did he say?

25 THE INTERPRETER: You have to

1 M. Fajardo

2 listen to everything she is saying.

3 MR. WALLACE: Listen to the
4 question.

5 MR. ZABELL: It's not uncommon of
6 Mr. Wallace's clients.

7 Q What was the range of times that
8 you started work every morning?

9 A 6:30, sometimes at 5:30.

10 Q You either start work at 5:00 or
11 6:30 every morning?

12 MR. WALLACE: Objection, asked and
13 answered.

14 A Yes.

15 Q Never any later?

16 A No.

17 Q Never at 8:00?

18 A Sometimes, a few time.

19 Q Never at 8:30, correct?

20 A No.

21 Q And if sworn sign-in sheets said
22 that you did sign in at 8:30, they would be
23 incorrect?

24 A Yes.

25 MR. WALLACE: Can I take a break

1 M. Fajardo

2 quickly?

3 MR. ZABELL: Yes, you may.

4 (Whereupon, a recess was taken
5 from 12:29 p.m. until 12:44 p.m.)

6 MR. ZABELL: Before starting,
7 Mr. Wallace has acknowledged that the
8 purpose of his break, amongst other
9 things, was to talk to his client.

10 Q Mr. Fajardo, if that is your true
11 name --

12 MR. WALLACE: Objection.

13 Q What was the last job that you
14 worked at for Suffolk Paving?

15 A I don't remember, but I know it
16 was in Riverhead.

17 Q Did you ever tell anyone on that
18 worksite that you were looking to create
19 overtime for your workers?

20 A No.

21 Q So if one of your workers said
22 that, they would be lying, correct?

23 MR. WALLACE: Objection.

24 A Yes.

25 Q You wouldn't be lying?

1 M. Fajardo

2 MR. WALLACE: Objection.

3 A No. Why would I have to create
4 overtime when I want to leave from my house
5 early?

6 Q You want to leave for your house
7 early?

8 A Yes.

9 Q Who drove you to work?

10 A Sometimes Carlos.

11 Q Did Carlos drive in his own
12 vehicle or a company vehicle?

13 A In a company vehicle.

14 Q Carlos always picked you up
15 between 5:00 and 7:30 in the morning?

16 A Yes.

17 Q From 2003 to 2009, where did you
18 live?

19 A From 2003 to 2008, I lived at 68
20 Walton Street in Brentwood.

21 Q And from 2008 to 2009, where did
22 you live?

23 A At 24 Carter Street.

24 Q The check for \$2,000 that you said
25 you received in August 2008, was that given to

1 M. Fajardo

2 you directly?

3 MR. WALLACE: Objection. I'm not
4 sure he said check.

5 Q Was that given to you directly?

6 A Check, from when? Repeat the
7 question.

8 Q The \$2,000 check that you received
9 from Louis Vecchia?

10 A No, he gave it to me in cash.

11 Q He gave it to you in cash?

12 A Yes.

13 Q You didn't ask another employee to
14 get that \$2,000 for you?

15 MR. WALLACE: Objection.

16 A That was when I was in Columbia.

17 Q When you were in Columbia, you got
18 another \$2,000?

19 MR. MCNAMARA: Objection.

20 A It was from the same loan.

21 Q When you were in Columbia, you got
22 a loan of \$8,000 for your mother?

23 MR. WALLACE: Objection.

24 Q Is that correct; yes or no?

25 A Yes.

1 M. Fajardo

2 Q Even though you were in Columbia
3 after you had already left Guatemala, correct?

4 A Yes.

5 Q Then, you got another loan of
6 \$8,500 to pay for the expenses for your trip,
7 correct?

8 A Yes.

9 Q Even though you already testified
10 that you needed some of that money to give your
11 children before you left, correct?

12 MR. WALLACE: Objection.

13 Q Yes or no?

14 A Yes.

15 Q Then, you're saying you got
16 another loan of \$2,000?

17 MR. MCNAMARA: Objection.

18 A Yes.

19 Q And then, in July, after you came
20 back, you got another \$2,000 from Louis Vecchia,
21 correct?

22 A I didn't come in July.

23 Q I know you didn't come in July,
24 but you said in July or August, you got another
25 \$2,000?

1 M. Fajardo

2 A In August.

3 Q So you got over \$20,000 from
4 Suffolk Paving, correct?

5 MR. MCNAMARA: Objection.

6 A Yes.

7 Q And you have no proof that you
8 paid any of it back?

9 MR. WALLACE: Objection.

10 A No.

11 Q Did you pay any of it back?

12 MR. MCNAMARA: Objection.

13 MR. WALLACE: Objection, asked and
14 answered.

15 A No. But he took the truck in
16 exchange.

17 Q So your answer is no?

18 A Yes.

19 Q This is the same truck that you
20 bought for \$44,000?

21 MR. WALLACE: Objection.

22 Q Yes or no?

23 A \$46,000.

24 Q But you only paid about \$36,000?

25 A Something like that.

1 M. Fajardo

2 Q You were about five months behind
3 on that?

4 MR. WALLACE: Objection.

5 A Yes.

6 Q Did a whole year go by that you
7 didn't pay for that truck?

8 MR. WALLACE: Objection.

9 A No.

10 Q Truth?

11 A Yes.

12 Q Where do you have proof of the
13 payments that you made for the truck?

14 MR. WALLACE: Objection, asked and
15 answered.

16 A I never had any proof of
17 exchanging checks or giving a signature because
18 he said that we were like family.

19 Q Did you ever sign an agreement
20 saying that you were buying that truck from your
21 family?

22 A No. I signed a paper saying that
23 the person who was going to insure the car, who
24 was Jose Vallace, could not take the car,
25 because he was going to put the insurance in his

1 M. Fajardo

2 name.

3 Q Why weren't you going to put the
4 insurance in your name?

5 A Because I didn't have a license.

6 Q So you didn't have a license but
7 yet, you were buying a vehicle?

8 A Yes.

9 Q So if you didn't have a license,
10 how could you drive the vehicle?

11 MR. WALLACE: Objection.

12 A Because I needed it.

13 Q You needed a license or you needed
14 a vehicle?

15 A I needed a car.

16 Q You needed a \$46,000 Lincoln
17 Navigator?

18 A Yes.

19 Q How come you didn't buy a \$4,800
20 Honda Civic?

21 MR. WALLACE: Objection.

22 A Because I didn't have an
23 opportunity to buy it. He gave me the
24 opportunity to buy it like that.

25 Q And you never finished paying off

1 M. Fajardo

2 the vehicle?

3 MR. MCNAMARA: Objection.

4 MR. WALLACE: Objection.

5 A No. He said that I no longer had
6 to pay, because he couldn't give me a raise.

7 Q He couldn't give you a raise.

8 What year was this raise that you
9 were supposed to get?

10 A 2006.

11 Q But in 2006, you were getting paid
12 union wages, correct?

13 A Not the union, prevailing wage.

14 Q Do you know that prevailing wage
15 is set by the union?

16 A Yes.

17 Q You know that there was some jobs
18 that you worked on that were not prevailing wage
19 jobs, correct?

20 A Yes.

21 Q Sometimes you worked on private
22 jobs?

23 A Yes.

24 Q And the union set the wages for
25 those private jobs, correct?

1 M. Fajardo

2 MR. WALLACE: Objection.

3 Q You can answer.

4 A Yes. But sometimes the private
5 jobs, they would pay us for regular.

6 Q Would they pay you in cash or
7 check?

8 A Yes.

9 Q You got a check for every week you
10 worked, correct?

11 MR. MCNAMARA: Objection.

12 A Yes.

13 Q Sometimes, in addition to your
14 paycheck, you get paid cash? It's just what you
15 testified to.

16 A Sometimes.

17 Q So even though the union set your
18 wages, you tried to negotiate a higher wage?

19 MR. WALLACE: Objection.

20 A Yes.

21 Q And you were told no, correct?

22 A Yes.

23 Q Then, you stopped making the
24 payments on the vehicle?

25 MR. MCNAMARA: Objection.

1 M. Fajardo

2 MR. WALLACE: Objection.

3 A Yes.

4 Q Do you wonder why that vehicle was
5 repossessed?

6 MR. WALLACE: Objection.

7 A Because I owed him money.

8 Q Now you understand why it was
9 repossessed?

10 A Yes.

11 MR. WALLACE: Objection.

12 Q You understand that you owe money
13 on the vehicle once it's repossessed?

14 MR. WALLACE: Objection, asked and
15 answered.

16 A No, but I don't owe him anything.

17 MR. WALLACE: Objection.

18 Q Who do you owe the money to?

19 A No one, because he took away the
20 truck. I paid the truck \$32,000, and he said
21 when he took the truck -- I spoke with him, and
22 he said that he still owed me.

23 Q Was anybody else present when he
24 said that to you?

25 A No.

1 M. Fajardo

2 Q So it's just your word?

3 A Just him and me, and he said that
4 he has to go out of his office because they were
5 listening to him.

6 Q Who was the "they"?

7 A I don't know.

8 Q Little green men?

9 MR. WALLACE: Objection.

10 A I don't know.

11 Q Who was the "they" that was
12 listening?

13 MR. WALLACE: Objection, asked and
14 answered.

15 A He went like this (indicating), up
16 to the sky and he said, let's go outside because
17 I don't want to speak here.

18 Q Do you know who you're suing?

19 A Yes.

20 Q Who are you suing?

21 A Louis Vecchia.

22 Q Do you know if you're suing
23 anybody else, other than Louis Vecchia?

24 MR. MCNAMARA: Objection.

25 A No.

1 M. Fajardo

2 Q Do you know you're suing Louis
3 Vecchia and Suffolk Paving?

4 A Yes.

5 Q So you do know?

6 MR. MCNAMARA: Objection.

7 A Yes.

8 Q Do you know that you're suing
9 Louis Vecchia's wife?

10 A Well, I didn't know that she was
11 on the list, because I didn't know that she was
12 the owner, and the only owner that was there was
13 him. That's what he would tell me.

14 Q Do you have any reason to believe
15 that Louis Vecchia's wife is an owner?

16 MR. MCNAMARA: Objection.

17 A Because it's his wife.

18 Q So that is the only reason that
19 you have?

20 A Yes.

21 MR. MCNAMARA: Objection.

22 A She was always working in the
23 office.

24 Q There were other people working in
25 the office that you're not suing, as well,

1 M. Fajardo

2 correct?

3 A Because the other ones were
4 secretaries.

5 Q Do you know you're also suing
6 Louis Vecchia's son?

7 MR. MCNAMARA: Objection.

8 A Yes. But I didn't know the
9 reasons why they were there, as well.

10 Q Do you know the reasons why now?

11 A Because now they say that they are
12 the owners.

13 Q Who said that they are the owners?

14 A The papers.

15 Q What papers?

16 A Where the suit is, it's saying
17 that we are suing them.

18 Q You're suing Louis Vecchia's
19 family?

20 MR. WALLACE: Objection. Asked
21 and answered.

22 You can answer for the fifth time.

23 A Yes.

24 Q This is the man that lent you
25 money to help your sick mother?

1 M. Fajardo

2 MR. WALLACE: Objection.

3 A Yes.

4 Q Is that how you thank him?

5 A The same way that he thanked me
6 for working twelve years for him?

7 Q You always got paid, right?

8 MR. WALLACE: Objection.

9 A Not correct amounts.

10 Q You got a paycheck for every week
11 you worked?

12 A Yes.

13 Q The union governs how you get
14 paid, correct?

15 MR. MCNAMARA: Objection.

16 A Not when I wasn't in the union.
17 When I started in the union, they would give me
18 a salary, but they would not pay us our overtime
19 hours.

20 Q What year did you start in the
21 union?

22 MR. MCNAMARA: Objection.

23 A 2007.

24 Q If there was a problem with your
25 pay, you could complain to the union?

1 M. Fajardo

2 A Yes.

3 Q You never did complain to the
4 union, did you?

5 MR. WALLACE: Objection.

6 A No, never.

7 Q But you could have?

8 A Yes, we could have.

9 Q But you failed to do so?

10 A Yes, because he would say that he
11 could let us go afterwards.

12 Q And instead, you walked off a job
13 site?

14 MR. WALLACE: Objection.

15 A No, I never left from any job
16 site.

17 Q And you stopped coming to work?

18 A No, they told me not to come.

19 Q Who told you?

20 MR. WALLACE: Objection.

21 A Tommy.

22 Q And didn't Tommy tell you to call
23 Louis?

24 A Yes.

25 MR. WALLACE: Objection.

1 M. Fajardo

2 Q And you called Louis once and you
3 didn't leave a message, correct?

4 A Yes.

5 Q You didn't follow up with Louis to
6 see if you would get the job, correct?

7 MR. WALLACE: Objection.

8 A Yes.

9 Q Did you complain to the union that
10 you were fired?

11 A No.

12 Q Why not?

13 A Because I went to look for work at
14 the union, and they said they were going to call
15 me.

16 Q So you walked off the job --

17 MR. MCNAMARA: Objection.

18 Q -- for Suffolk Paving and
19 immediately started working for another
20 employer?

21 MR. WALLACE: Objection.

22 A No.

23 Q There was a period of time that
24 you were out of work, correct?

25 A Yes.

1 M. Fajardo

2 Q How many months?

3 A For five months. I worked for a
4 company for one month.

5 Q What company did you work for?

6 A Fasco Paving.

7 Q Did you tell the union at all that
8 you were not working at Suffolk Paving anymore?

9 A Yes.

10 Q Did you work at Fasco Paving when
11 you collected unemployment benefits?

12 MR. MCNAMARA: Objection.

13 A When I was working for Fasco, I
14 was never collecting.

15 Q Are you sure?

16 A One hundred percent.

17 Q Did you ever collect unemployment
18 benefits during a period of time when you were
19 working?

20 A No.

21 Q What did you do for Fasco?

22 A I was a raker.

23 Q Did they pay you correctly?

24 A No.

25 Q They didn't pay you correctly

1 M. Fajardo

2 either?

3 A No.

4 Q Did you complain to the union?

5 A No, because I was working without
6 the union.

7 Q Why were you working without the
8 union?

9 A Because I had to pay the bills for
10 my payments, and I had to support my children.

11 Q How much were they paying you?

12 A \$200.

13 Q A day?

14 A Yes.

15 Q On the books or off the books?

16 A Off the books, because I only
17 worked two or three days a week.

18 Q Did you report to the IRS that you
19 were getting that money?

20 MR. WALLACE: Objection.

21 A No.

22 Q So you committed fraud?

23 A Well, if I have to pay it, I'll
24 pay it.

25 Q I'm telling you, have to pay taxes

1 M. Fajardo

2 on that money.

3 MR. WALLACE: Objection.

4 A Okay.

5 Q Do you know that?

6 A Yes.

7 MR. WALLACE: I want to mark
8 confidential all the parts of this
9 deposition relating to payment or
10 nonpayment or any tax information.

11 MR. ZABELL: I object to the
12 designation and will not agree to it.

13 Q Did you put in an out-of-work card
14 during the time that you worked for Fasco?

15 A No. They were going to give me a
16 fine when I went to speak with them, and they
17 said that I should try to pay my dues, and that
18 they thought I was going to leave the union.
19 They asked me if I was going to leave and I
20 said, no.

21 Q Did you pay the union?

22 A Yes.

23 Q How much did you pay them in a
24 fine?

25 A No. They never -- they didn't

1 M. Fajardo

2 give me the fine.

3 Q So you never put in an out-of-work
4 card with the union?

5 MR. WALLACE: Objection, asked and
6 answered.

7 You can answer for the third time.

8 A At the end of December.

9 Q So you didn't look for work until
10 the end of December?

11 MR. WALLACE: Objection.

12 A I looked for work in companies. I
13 knew had a union, but they didn't want to give
14 me work.

15 Q Why didn't they want to give you
16 work?

17 A I don't know.

18 Q Is it because you're dishonest?

19 MR. WALLACE: Objection.

20 A I was very honest, because when I
21 worked for Suffolk Paving, everyone would call
22 me to give me work.

23 Q Who is "everyone"?

24 A CVC, Intercounty, Pioneer, Atlas.

25 Q How come you didn't work for them

1 M. Fajardo

2 immediately after you walked off the job at
3 Suffolk Paving?

4 MR. WALLACE: Objection.

5 A Because when I went to ask for
6 work, they told me that they were going to call
7 me but they never did.

8 Q Do you know why?

9 A I think it was because they knew
10 Louis.

11 Q You think it was because they knew
12 Louis?

13 A Yes.

14 Q Why do you think that?

15 A Because sometimes their trucks
16 were with us.

17 Q Other than the fact that sometimes
18 their trucks were with you, do you have any
19 reason to believe that it was because of Louis
20 that you didn't get a job in any of these
21 companies?

22 A Sometimes I think that.

23 Q Do you get paid overtime now?

24 A Yes.

25 Q How much overtime do you get?

1 M. Fajardo

2 A Double time, the right way.

3 Q Did you ever get paid double time
4 when you worked for Suffolk Paving?

5 A He never paid double. He would
6 only pay time-and-a-half. My payment was
7 doubled; when he paid, it was sometimes two or
8 three hours.

9 Q Per day?

10 A No -- sometimes when he paid the
11 hours.

12 Q Did you ever work for the Town of
13 Babylon?

14 A I think so, because we worked
15 everywhere.

16 MR. WALLACE: Objection.

17 Just one thing, could you read his
18 answer before that one?

19 MR. ZABELL: You can read it to
20 him at the end of the deposition.

21 Q What time did you start working
22 when you worked at the Town of Babylon?

23 A This is the problem. The problem
24 is that when the guys would go to the yard at
25 6:30, I would start at the job site at 6:30,

1 M. Fajardo

2 because I would go with the guy who would pick
3 me up in the company pick-up. We would go
4 directly to the job site and mark lines.

5 Q Every day?

6 A Mostly every day.

7 Q So mostly every day, you would go
8 directly to the job site, correct?

9 A Not every day.

10 Q You have to make up your mind and
11 just go with the honest answer, because you keep
12 changing your answer and it makes you appear to
13 be dishonest.

14 MR. WALLACE: Objection.

15 Q Didn't you just testify that
16 almost every day, the driver would pick you up
17 and you would go directly to the worksite?
18 Didn't you just testify to that?

19 MR. WALLACE: Objection, let him
20 respond.

21 Q Didn't you?

22 A The driver would pick me up every
23 day; sometimes they would send me to the yard,
24 sometimes the job site, and I would start the
25 same time as everyone, the yard or the site.

1 M. Fajardo

2 Sometimes when I had to go to Brooklyn, you had
3 to be early, as well, because I had to mark
4 lines because he said that we had to finish
5 early.

6 Q And do you remember testifying
7 that you would drive directly to the job site in
8 the morning?

9 MR. MCNAMARA: Objection.

10 A If it would have been necessary.

11 Q But you couldn't drive because you
12 didn't have a driver's license?

13 A Yes.

14 Q So you had to rely on somebody to
15 pick you up, correct?

16 A It wasn't me. It was the owner,
17 because the owner needed me to be there to mark
18 lines, because he knew that we would lose an
19 hour marking lines.

20 Q Did the owner drive you to the
21 worksite?

22 A No.

23 Q You had to rely on somebody else
24 to drive you to the worksite?

25 A Yes.

1 M. Fajardo

2 Q Because you had no license?

3 MR. WALLACE: Objection.

4 Q You had no ability to get there
5 without someone driving you there?

6 MR. MCNAMARA: Objection.

7 A Yes.

8 Q Do you remember when you worked
9 for the Town of Babylon?

10 A No.

11 Q Do you know if you showed up at
12 work at 8:00 in the morning when you worked for
13 the Town of Babylon?

14 MR. MCNAMARA: Objection.

15 A I was there at that time, I could
16 remember. But if he had another group from the
17 union, because he had problems with the union
18 people. When I didn't have a union, he hired a
19 complete union group.

20 MR. WALLACE: Who is "he"?

21 THE WITNESS: Louis Vecchia.

22 Q I'm going to show you a document
23 that was marked as Exhibit 5 yesterday. Take a
24 look at this.

25 Can you read that?

1 M. Fajardo

2 A Yes.

3 Q Do you know what that is?

4 A Yes.

5 Q Do you see your name anywhere on
6 that?

7 A Yes.

8 Q Is your name on the first page?

9 A Yes.

10 Q What name did you go by on that
11 document?

12 A It says Maynor Guerra.

13 Q That is a name that you sometimes
14 went by?

15 MR. WALLACE: Objection.

16 A I was never known as Maynor
17 Guerra, never. Only Maynor Fajardo and Renato
18 Guerra.

19 Q Do you know a Maynor Guerra?

20 MR. WALLACE: Objection.

21 A No.

22 Q So that had to have been you,
23 correct?

24 A Yes, but I didn't write that --

25 MR. MCNAMARA: Objection.

1 M. Fajardo

2 A Because I don't use Maynor
3 Fajardo.

4 Q It shows that you showed up to
5 work at 8:00 in the morning?

6 MR. WALLACE: Objection.

7 A That's what the paper says.

8 Q It shows that you stopped working
9 at 6:00 p.m.?

10 A That's what the paper says.

11 Q I'm going to ask you to turn the
12 page.

13 Do you see your name again?

14 A Yes.

15 Q What time does it show you showing
16 up at work?

17 MR. WALLACE: Objection.

18 A 8:00.

19 Q What time does it show you leaving
20 work?

21 MR. WALLACE: Objection.

22 A 4:00.

23 Q I'm going to ask you to turn the
24 page.

25 Do you see your name on that page?

1 M. Fajardo

2 A No.

3 Q I'm going to ask you to turn the
4 page again.

5 Do you see your name on that page?

6 A No.

7 Q I'm going to ask you to turn the
8 page again.

9 Do you see your name on that page?

10 A Yes.

11 Q What time does it show you coming
12 into work?

13 MR. WALLACE: Objection.

14 A It says 8:30, but they put down
15 Maynor Guerra Fajardo.

16 Q Is that you?

17 A No. They put it down like that,
18 but that's not me.

19 Q Do you know any Maynor Guerra
20 Fajardo?

21 A I know Maynor Fajardo but not
22 Guerra.

23 Q But you've used the last name
24 Guerra?

25 MR. MCNAMARA: Objection.

1 M. Fajardo

2 A Renato Guerra.

3 Q So you changed your first name,
4 too?

5 MR. WALLACE: Objection.

6 A I changed it, but my name is
7 Maynor Fajardo.

8 Q Not Fajardo?

9 A Fajardo, as well.

10 Q So you're Maynor Fajardo and
11 Maynor Renato, but not Maynor Guerra Fajardo?
12 Just answer yes or no.

13 MR. WALLACE: He's trying to
14 respond.

15 A Maynor is my first name, Renato is
16 my middle name, and Fajardo is my last name.

17 Q And Renato Guerra is a name that
18 sometimes you go by, correct?

19 A Yes.

20 Q Do your co-workers know you as
21 Maynor?

22 A Yes.

23 Q Do your co-workers know you as
24 Renato?

25 A Yes.

1 M. Fajardo

2 Q Do your co-workers know you as
3 Guerra?

4 A No.

5 Q Do they know you as Fajardo?

6 A Yes.

7 Q They're both names that you use,
8 correct?

9 MR. MCNAMARA: Objection.

10 A Yes.

11 Q This sheet shows you coming in at
12 8:30 in the morning, correct?

13 MR. WALLACE: Objection, asked and
14 answered.

15 A Yes.

16 Q It shows you leaving at 6:00?

17 MR. WALLACE: Objection.

18 A Yes.

19 Q You say you never started work at
20 8:00?

21 A No.

22 MR. WALLACE: Objection,
23 mischaracterization of his testimony.

24 Q I ask you to turn the page.

25 Do you see your name there?

1 M. Fajardo

2 A Yes.

3 Q What time does it show you coming
4 to work?

5 MR. WALLACE: Same objection.

6 A 8:30.

7 Q What time does it say you leaving?

8 A 5:00.

9 Q I'm going to ask you to turn the
10 page.

11 Do you see your name?

12 A Yes.

13 Q What time does it show you coming
14 into work?

15 MR. WALLACE: Objection.

16 A 8:00.

17 Q What time does it show you leaving
18 work?

19 MR. WALLACE: Objection.

20 A 6:00.

21 Q You do remember working at the
22 Town of Babylon?

23 A I know I worked there because we
24 worked everywhere.

25 Q Turn the page, Maynor Fajardo

1 M. Fajardo

2 Guerra.

3 Do you see your name there?

4 A Yes.

5 Q What time does it show you coming
6 into work?

7 A 8:30.

8 Q What time does it show you leaving
9 work?

10 MR. WALLACE: Objection.

11 A 5:00.

12 Q I'm going to ask you to turn the
13 page.

14 Do you see your name anywhere
15 there?

16 A Yes.

17 Q What time does it show you coming
18 into work?

19 MR. WALLACE: Objection.

20 A 8:30.

21 Q What time leaving?

22 A 6:00.

23 Q You can give me back that
24 document. I see you're laughing.

25 Why are you laughing, sir?

1 M. Fajardo

2 A Why? Because I don't know why
3 they put my name down as Maynor Guerra Fajardo.

4 Q That's what you think is funny?

5 A Yes.

6 Q What is funny about that?

7 A Why would someone write down my
8 name like that?

9 Q When you use many names, people
10 don't know what to call you.

11 MR. WALLACE: Objection.

12 A I was laughing because you were
13 making fun of my name.

14 Q I'm sorry, I was not making fun of
15 your name.

16 A It felt that way.

17 Q Why did it feel that way?

18 A Because of the way that you were
19 repeating my name.

20 Q How was I repeating your name?

21 A Mr. Maynor Fajardo Guerra, like
22 that, so funny.

23 Q Do you know when Louis Vecchia was
24 served with a copy of the complaint?

25 A I don't recall.

1 M. Fajardo

2 Q Do you know?

3 A I think it was in December, I
4 think.

5 Q Is that the December before you
6 stopped working for Suffolk Paving or the
7 December after?

8 MR. WALLACE: Objection.

9 A The December that they let me go.

10 Q Before or after they let you go?

11 MR. WALLACE: Objection.

12 A After having let me go.

13 Q So you filed the lawsuit after you
14 were terminated?

15 MR. WALLACE: Objection.

16 A Yes.

17 Q Do you know if Louis Vecchia knew
18 you were going to file a lawsuit?

19 MR. MCNAMARA: Objection.

20 A I don't know.

21 Q Did you ever tell Louis Vecchia
22 that you were going to file a lawsuit?

23 A No.

24 Q Did you ever speak to Louis
25 Vecchia about filing a lawsuit?

1 M. Fajardo

2 A No.

3 Q Did you ever speak to Louis
4 Vecchia about anything that is inside your
5 lawsuit?

6 A Yes.

7 Q What did you speak to Louis
8 Vecchia about?

9 A My overtime hours.

10 Q When did you speak to him?

11 A Every day, every Friday.

12 Q Please identify for me the Fridays
13 that you spoke to him.

14 MR. WALLACE: Objection.

15 A When we would pick up our check
16 and we would look at the checks, there were
17 always hours missing, always. He never paid the
18 hours, and he would always say that we worked
19 slowly.

20 Q He would say that you worked
21 slowly?

22 A Yes.

23 Q Did you work slowly?

24 A No.

25 Q Never?

1 M. Fajardo

2 A It depends on the work.

3 Q So sometimes you would work
4 slowly?

5 MR. WALLACE: Objection.

6 A The work was very difficult.

7 Q And sometimes you would play
8 soccer at the job site?

9 MR. WALLACE: Objection.

10 A Sometimes the guys had a break
11 because there were no trucks, yes.

12 Q You would play soccer, too?

13 A No.

14 Q No? Everybody else would play,
15 but not you?

16 A No, I play baseball.

17 Q You would play baseball?

18 A Sometimes I would play with a ball
19 that I had.

20 Q You would bring a baseball with
21 you?

22 A Yes, there was one in the truck.

23 Q Did you bring a mitt, too?

24 A Yes.

25 Q Bat?

1 M. Fajardo

2 A No.

3 Q No bat, just the baseball and a
4 mitt?

5 A Yes.

6 Q Did you control the trucks, and
7 when they came and left?

8 A Sometimes.

9 Q Now, were you in charge of the
10 crew as a foreman?

11 A Yes.

12 Q When they were playing games, you
13 could have had them doing work, correct?

14 MR. WALLACE: Objection.

15 A They were working.

16 Q You just said they were playing
17 games before?

18 A When they were playing, it was
19 that they didn't have anything to do.

20 Q You could have found things for
21 them to do?

22 MR. WALLACE: Objection.

23 A Not really, because they would
24 clean the trucks, and sometimes we would clean
25 the heads of the drains and sometimes there was

1 M. Fajardo

2 nothing to do, so they would entertain
3 themselves sometimes while the other truck was
4 coming, because sometimes the plant -- we would
5 have to wait.

6 Q Under what name did you join the
7 union?

8 A Maynor Fajardo.

9 Q But you didn't join the union
10 under the name Renato Guerra?

11 A No.

12 Q So the union doesn't know about
13 the Renato Guerra?

14 MR. MCNAMARA: Objection.

15 A No.

16 Q Are you claiming that you should
17 be paid for travel time traveling between the
18 yard and the job site?

19 A When I started at work and when we
20 got to the yard, we always had to get tools,
21 sometimes charge the machines -- a machine, and
22 get propane, and when we got to the yard, we are
23 already working when he would tell us 6:00.

24 Q Don't you remember testifying
25 earlier that you said the tools were already in

1 M. Fajardo

2 the truck?

3 A Tools, not machinery.

4 Q Tools?

5 A Sometimes a rake would break or
6 two rakes would break, sometimes shovels,
7 sometimes you had to get cement, bricks, risers,
8 I don't know.

9 Q How big is the truck?

10 A It's two trucks; one was the
11 company truck that had all of the tools, and one
12 that we took which was the one that had the
13 paint, the tires, the tire to measure, and
14 sometimes we would put risers there.

15 Q But all of those were in the truck
16 already, correct?

17 MR. WALLACE: Objection.

18 A Sometimes.

19 Q That was the truck that someone
20 would drive to pick you up?

21 MR. WALLACE: Objection.

22 A There are two trucks; one person
23 would drive and the other -- someone that was
24 with me.

25 Q Who was the person that was with

1 M. Fajardo

2 you?

3 A Carlos.

4 Q Carlos' truck already had this
5 equipment in it, correct?

6 MR. WALLACE: Objection.

7 A Sometimes.

8 Q If Carlos needed equipment, he
9 could go to the shop and then come and pick you
10 up, correct?

11 A Sometimes he would work in the
12 Bronx, he would fill up with diesel for the
13 machine, and sometimes he would pass by and pick
14 me up.

15 Q Because Carlos didn't need you to
16 put a rake in the truck?

17 MR. WALLACE: Objection.

18 A No.

19 Q Risers in truck?

20 A No, he would use the other guys.

21 Q Because the other guys needed a
22 lift to work?

23 MR. WALLACE: Objection.

24 A No, they would go to the yard.

25 Q But they went to the yard to get a

1 M. Fajardo

2 ride. Don't you understand that?

3 MR. WALLACE: Objection.

4 A Yes, they would go.

5 Q To get a ride?

6 MR. WALLACE: Objection.

7 Q Yes or no?

8 MR. WALLACE: It's not yes or no.

9 A Yes, they would go to the yard
10 because --

11 Q Mr. Fajardo, answer the question
12 yes or no.

13 MR. WALLACE: He's answering the
14 question.

15 Q Yes or no, Mr. Fajardo, they went
16 to the yard to get a ride?

17 A Yes.

18 MR. WALLACE: Finish your answer.

19 Q Now, do you know who Edwin Rivera
20 is?

21 A Can I explain that?

22 Q No.

23 Do you know who Edwin Rivera?

24 A Yes.

25 Q Who is Edwin Rivera?

1 M. Fajardo

2 A A laborer.

3 Q Did you work with Edwin Rivera?

4 A Yes.

5 Q Do you know what his work schedule
6 was?

7 A The same as mine sometimes and
8 sometimes different, because they would send him
9 to different places.

10 Q I asked you before: Do you know
11 Pracelis Mendez?

12 A Yes.

13 Q Was his work schedule the same as
14 yours?

15 A No, it wasn't.

16 Q Do you know Nelson Quintanilla?

17 A Yes.

18 Q Was his work schedule the same as
19 yours?

20 A Most of the time, yes.

21 Q Did Carlos pick him up?

22 A Yes.

23 Q Do you know Alejandro Amaya?

24 A Yes.

25 Q Was his work schedule the same as

1 M. Fajardo

2 yours?

3 A No, he was worked with Mendez.

4 Q Do you know Alex Amir Arevalo?

5 A Yes.

6 Q Was his work schedule the same as

7 yours?

8 A No.

9 Q Do you know Walter Garcia?

10 A Yes.

11 Q Was his work schedule the same as

12 yours?

13 A Yes.

14 Q Every day?

15 A Sometimes.

16 Q Did Carlos pick him up, too?

17 A No.

18 Q Do you know Jose L. Martinez?

19 A Yes.

20 Q Was his schedule the same as

21 yours?

22 A Sometimes, because sometimes he
23 worked with Mendez and sometimes he worked with
24 me.

25 Q So it was not the same all the

1 M. Fajardo

2 time?

3 A No, that is why sometimes.

4 Q Did Carlos pick up Jose Martinez?

5 A No.

6 Q Do you know Osmar W. Pagoada?

7 A Yes.

8 Q Was his work schedule the same as
9 yours?

10 A Sometimes.

11 Q Sometimes it was, and sometimes it
12 was not?

13 A Yes.

14 Q Do you know what days it was the
15 same as yours?

16 A No.

17 Q Do you know what days it was not
18 the same as yours?

19 A No.

20 Q Do you know Javier Quintanilla?

21 A Yes.

22 Q Was his work schedule the same as
23 yours?

24 A No.

25 Q Do you know Carlos Escalante?

1 M. Fajardo

2 A Yes.

3 Q Was his work schedule the same as
4 yours?

5 A Yes.

6 Q Every day?

7 A Yes.

8 Q Did Carlos pick him up?

9 A He was the one that drove, he was
10 the one that picked me up.

11 Q Were there days that Carlos didn't
12 pick you up?

13 A No, he would take me every day.

14 Q That was the time that he picked
15 you up, whatever his GPS says?

16 A Yes, but the time that he picks me
17 up and get to work is different.

18 Q Do you know Kevin Galeano?

19 A Yes.

20 Q Did Kevin Galeano work the same as
21 you?

22 A Sometimes.

23 Q But sometimes it was not the same
24 as you, right?

25 A No.

1 M. Fajardo

2 Q Do you know Lerly Rodriguez?

3 A Yes.

4 Q Did he work the same schedule as
5 you?

6 A Yes.

7 Q Every day?

8 A Yes.

9 Q Was he in the car with Carlos when
10 Carlos drove you?

11 A No, but sometimes he would drive
12 the other truck.

13 Q So you don't know what time he
14 would get the other truck, correct?

15 MR. WALLACE: Objection.

16 A When he got to the yard.

17 Q But you don't know when he got to
18 the yard?

19 MR. WALLACE: Objection.

20 A The time that Louis Vecchia asked.

21 Q Do you know what time that was?

22 MR. WALLACE: Objection.

23 A Sometimes 6:30.

24 Q Sometimes 8:00?

25 MR. WALLACE: Objection.

1 M. Fajardo

2 A We never got to the yard at 8:00.

3 Q What if the GPS reports say that
4 you have?

5 A Check, then.

6 Q Wouldn't that make you a liar?

7 MR. WALLACE: Objection.

8 A No. Because I was always at my
9 work, I always get there early.

10 Q Do you know who Jose Vega Castillo
11 is?

12 A Yes.

13 Q Did he work the same schedule as
14 you?

15 A Sometimes.

16 Q Sometimes he worked a completely
17 different schedule?

18 A Yes.

19 Q Do you know who Juan Quinteros is?

20 A Yes.

21 Q Did he work the same schedule as
22 you?

23 A Yes.

24 Q How do you know he worked the same
25 schedule as you?

1 M. Fajardo

2 A Because he had union and he always
3 had to be in the group with me (sic).

4 Q Did Carlos drive him to work?

5 A No.

6 Q Do you know who Marcus Tulio Perez
7 is?

8 A Yes.

9 Q Did Marcus Tulio Perez work the
10 same schedule as you?

11 A Yes.

12 Q Was he in the car with you and
13 Carlos in the morning?

14 A No.

15 Q Who else would Carlos pick up in
16 the morning?

17 A No one.

18 Q So you don't know what time Marcus
19 Tulio Perez got to the job site, do you?

20 MR. WALLACE: Objection.

21 A He arrived at the time the boss
22 would say.

23 Q Do you know what time the boss
24 would say?

25 MR. WALLACE: Objection. When?

1 M. Fajardo

2 A Sometimes 6:30, 5:30 or 6:00.

3 Q Did Marcus Tulio Perez ever go
4 directly to the job site?

5 A Sometimes, yes.

6 Q Did you ever go directly to the
7 job site?

8 MR. WALLACE: Objection.

9 You can answer for the tenth time.

10 A With my car, no.

11 Q But with somebody else driving
12 you?

13 MR. WALLACE: Objection.

14 A Yes.

15 Q You could have driven your car to
16 the job site?

17 MR. WALLACE: Objection.

18 A Yes.

19 Q But you chose not to?

20 MR. WALLACE: Objection.

21 A The boss needed me to be there
22 early to make lines.

23 Q He needed you to be at the job
24 site early?

25 MR. WALLACE: Objection.

1 M. Fajardo

2 A Yes.

3 Q Not at the shop?

4 MR. WALLACE: Objection.

5 A No.

6 Q Correct?

7 MR. WALLACE: Objection.

8 A Yes.

9 MR. ZABELL: Okay, it's 1:30. Why
10 don't we take a fifteen-minute lunch
11 break.

12 MR. WALLACE: I am suggesting a
13 thirty-minute lunch break.

14 MR. ZABELL: If you are requesting
15 a thirty-minute lunch break, I will
16 consent begrudgingly.

17 (Whereupon, a recess was taken
18 from 1:30 p.m. until 2:19 p.m.)

19 Q Mr. Fajardo, did you have lunch?

20 A Yes.

21 Q Did you have lunch with your
22 attorney?

23 A No.

24 Q Are you disappointed in that?

25 A I had to make phone calls.

1 M. Fajardo

2 Q Did you have a chance during the
3 break to discuss this deposition with your
4 attorney?

5 A I didn't really understand.

6 Q Did you have a chance during that
7 break to discuss this deposition with your
8 attorney?

9 A No.

10 Q Did you have any conversation with
11 your attorney during the break?

12 A Yes.

13 Q How much are you suing Louis
14 Vecchia for?

15 A I don't know. I only know that
16 it's many hours.

17 Q How many hours?

18 MR. MCNAMARA: Objection.

19 A I would have to see the hours on
20 the papers that we had and calculate them in the
21 way in which -- I remember from fifteen to
22 fourteen hours a week, sometimes seventeen.

23 Q Are you saying there was never a
24 week that you were paid correctly when you
25 worked for the defendants?

1 M. Fajardo

2 MR. WALLACE: Objection.

3 A Sometimes they paid us from two to
4 three hours, sometimes.

5 Q That is a wonderful answer. It's
6 just not the answer to the question that I asked
7 you.

8 I want you to pay attention and
9 just answer the questions that I ask you, okay?

10 A Yes.

11 Q Unless you tell me that you're
12 completely incapable of answering my questions,
13 do you understand?

14 A Yes.

15 Q Are you saying that there was
16 never a week that you worked for the defendants
17 that you were paid correctly?

18 MR. WALLACE: Objection, asked and
19 answered.

20 A Can you repeat it in Spanish
21 because I get confused?

22 Q I'm going to start this over
23 again. Hopefully, I will enable you to remove
24 that smirk from your face.

25 Do not pay attention to the

1 M. Fajardo

2 question that I ask you, pay attention to the
3 question that the interpreter asks you.

4 Are you capable of doing that?

5 A Yes.

6 Q Now, are you saying that there was
7 never a week that you worked for the defendants
8 that you were paid correctly?

9 A Yes.

10 Q Throughout your entire employment
11 with defendants, you were never paid correctly?

12 A Yes.

13 Q Then, why did you work there?

14 A Because there was no work and
15 sometimes he would tell us that it was better to
16 be working than to be at home.

17 Q Didn't you testify just before
18 that all these other companies were asking you
19 to come work for them?

20 MR. WALLACE: Objection.

21 A Yes.

22 Q But you could have worked for
23 them, you didn't have to work for the
24 defendants?

25 MR. WALLACE: Objection.

1 M. Fajardo

2 Q Correct?

3 A Sometimes I would speak to my boss
4 and I would tell him -- once I told him that
5 there was a company that was offering me money,
6 and he told me with tears in his eyes, how was I
7 going to do that because we were like family,
8 and I couldn't do that.

9 He was going to help me and that
10 was when he gave me the \$2,000 that he gave me
11 in cash, because I told him that I was going to
12 work for Pioneer Asphalt. That was one year
13 before he let me go.

14 Q Did Pioneer Asphalt ever pay you
15 in cash?

16 A No, they don't pay cash.

17 Q Never?

18 A Never.

19 Q How much do you make a year for
20 Pioneer?

21 A I don't know, because I never seen
22 that.

23 Q Do you get paid travel time when
24 you work for Pioneer?

25 A No, go to the job site.

1 M. Fajardo

2 Q You get paid from when you get to
3 the job site, correct?

4 A From when I start working.

5 Q At the job site?

6 A Yes.

7 Q Which is different from what you
8 want to get paid from Suffolk Paving?

9 MR. WALLACE: Objection.

10 A Yes.

11 Q How do you get to the job sites?

12 MR. WALLACE: Objection. When?

13 A A friend of ours works at the same
14 place and we go together.

15 Q He drives you?

16 A Yes, in my car.

17 Q In your car?

18 A Yes.

19 Q Which car is this?

20 A It's a Honda.

21 Q Who did you buy the Honda from?

22 MR. MCNAMARA: Objection.

23 A My friend.

24 Q Did you pay him?

25 A Yeah.

1 M. Fajardo

2 Q The whole amount?

3 A Yes.

4 Q Did you ever go to the job site in
5 a company truck?

6 MR. WALLACE: Objection.

7 Q Now, with your current employer?

8 A Yes.

9 Q How do you get there in a company
10 truck if your friend drives your car?

11 A Because sometimes when we go to
12 Coney Island, no one wants to drive there, so we
13 go in the truck.

14 Q Are you claiming that you should
15 get paid from the time you get in the truck or
16 the time you get to the job?

17 A No. Because in this company, they
18 have one person that just picks up the tools,
19 gets the propane, fills up the machines and
20 drives, and we only have to get there on time
21 without doing anything.

22 Q So you're claiming that you should
23 get paid for that travel time or not?

24 MR. MCNAMARA: Objection.

25 MR. WALLACE: Objection.

1 M. Fajardo

2 A No.

3 Q When you worked for the
4 defendants, you're claiming that you should get
5 paid for travel time?

6 MR. WALLACE: Objection.

7 MR. MCNAMARA: Objection.

8 A Yes, because --

9 Q That is because you were family?

10 A Because we would start working as
11 soon as we got to the yard.

12 Q Were you family with Mr. Vecchia?

13 A No, he was not my family. But he
14 would tell me that I was his family, I did many
15 things for him.

16 Q What did you do for him?

17 A He would tell me that I had to
18 finish, because we had to go somewhere else and
19 sometimes we would stay until 10:00 p.m.

20 Q And you would get paid for that,
21 correct?

22 A No.

23 Q Did you complain to the union when
24 you didn't get paid?

25 A We would always complain to Louis

1 M. Fajardo

2 Vecchia and Tommy.

3 Q That is what your lawyer told you
4 to say?

5 MR. WALLACE: Objection.

6 A No.

7 Q Truth?

8 MR. WALLACE: Objection.

9 MR. MCNAMARA: Objection.

10 A The truth.

11 Q Do you know what a collective
12 bargaining agreement is?

13 A No.

14 Q Do you know what the terms and
15 conditions of your employment were with
16 defendants?

17 MR. WALLACE: Objection.

18 A No.

19 Q Do you know if somebody negotiated
20 the terms and conditions of your employment with
21 your employer, the defendants?

22 A No.

23 Q Do you know what the rules are on
24 travel time?

25 A Yes.

1 M. Fajardo

2 Q What are they?

3 A Paid from when one arrives at
4 work, when one starts working.

5 Q Specifically, what are the rules?

6 MR. MCNAMARA: Objection.

7 A Well, I think I only know about
8 those and the overtime hours have to be double,
9 holidays have to all be paid. We have the
10 obligation from greasing the machine every day a
11 half hour before, and that is the only thing
12 that I remember.

13 Q Did you ever get paid grease time?

14 A Yes.

15 Q From defendants?

16 A Yes.

17 Q That was paid for time that you
18 didn't actually work?

19 MR. WALLACE: Objection.

20 A Yes. I would grease the machine,
21 sometimes the machines would break down and when
22 the mechanic was far away, I would do what I
23 could to fix them so that production continued.

24 Q That was during the work day when
25 you were getting paid, correct?

1 M. Fajardo

2 A Yes. But it was not my job, just
3 like it wasn't my job either to show all of the
4 workers -- to show them how to work as he told
5 me that I had to show them.

6 MR. WALLACE: Who is "he"?

7 THE WITNESS: Louis Vecchia.

8 Q You had a problem showing your
9 fellow workers how to work?

10 MR. WALLACE: Objection.

11 A No.

12 Q Isn't that why you were the
13 foreman?

14 A Yes. But the problem is that I
15 didn't have time to come down and show them when
16 he was telling me that I had to hurry.

17 Q You didn't like it when he told
18 you that you had to hurry at a job site?

19 A No. Because there were times that
20 they were problems with the water, for example.
21 And he would arrive and I was raking, and he
22 would get angry because of that, and sometimes
23 he would tell me that I shouldn't be doing that.

24 But if I was not doing that, the
25 work wouldn't come out right, and he would yell

1 M. Fajardo

2 at me.

3 Q Do you remember the exact date
4 that you came back from Columbia?

5 A August 4th.

6 Q Of what year?

7 A 2008.

8 Q Do you know the exact date that
9 you left for Guatemala?

10 MR. MCNAMARA: Objection.

11 A January 19th.

12 Q Of what year?

13 A 2008.

14 Q When did you come back from
15 Guatemala?

16 MR. MCNAMARA: Objection.

17 MR. WALLACE: Objection.

18 A August 4, 2008.

19 Q So you were gone for eight months,
20 correct?

21 A Yes.

22 Q Do you remember testifying earlier
23 that you were only gone for two or three months?

24 MR. WALLACE: Objection.

25 A I didn't say I was away for

1 M. Fajardo

2 two months. I was in Guatemala for one month, I
3 was in Columbia for one month, and then I
4 returned to Guatemala.

5 MR. ZABELL: Off the record.

6 (Whereupon, a discussion was held
7 off the record.)

8 Q For 2008, you voluntarily chose
9 not to work for the defendants, correct?

10 A No.

11 Q No, you wanted to work for
12 defendants in 2008?

13 A Yes.

14 Q Do the defendants do any work in
15 Guatemala?

16 A No.

17 Q Do the defendants do any work in
18 Columbia?

19 A No.

20 Q So how could you continue to work
21 for them while you were on vacation in Guatemala
22 and Columbia?

23 A I was not working with him.

24 Q Did you want to work with him?

25 A Yes.

1 M. Fajardo

2 Q How could you work for him when
3 you were in Guatemala and Columbia?

4 A Because I had problems to return.

5 Q You had problems returning?

6 A Yes.

7 Q When did you first try to return?

8 A In July.

9 Q When in July?

10 A I don't recall the date.

11 Q So you had problems returning in
12 July and you returned in August?

13 A Yes.

14 Q That is when you borrowed another
15 \$2,000?

16 MR. MCNAMARA: Objection.

17 A No, that was in December.

18 Q No, the \$8,500 was in December,
19 was it not?

20 A Yes, but then, when I was not
21 working, I told him I needed \$2,000, and he gave
22 it to me and then, when I said I was going to
23 work at a different company, he gave it to me so
24 I wouldn't leave.

25 Q No, no.

1 M. Fajardo

2 You said that he lent you \$8,000
3 for your mother, correct?

4 A Okay.

5 MR. WALLACE: Objection, asked and
6 answered.

7 A Yes.

8 Q Then, he lent you another \$8,500
9 to pay for your trip and so you could give your
10 kids some money before you left the country?

11 MR. WALLACE: Objection.

12 A Yes.

13 Q Then, he gave you another \$2,000
14 because you needed help with a lawyer, correct?

15 MR. MCNAMARA: Objection.

16 A No. He sent that to me through a
17 co-worker.

18 Q Who was that co-worker?

19 A Carlos.

20 Q Carlos Escalante?

21 A Yes.

22 Q Why did you tell Carlos you needed
23 that \$2,000?

24 A Because he was the only person
25 with whom I could communicate.

1 M. Fajardo

2 Q When did he send that \$2,000 for
3 you?

4 A I don't recall.

5 Q Was that before you came back?

6 A No.

7 Q It was after you came back?

8 A No, before returning.

9 Q Which is the question that I just
10 asked you: And how come you said "no"
11 originally?

12 A Because I didn't understand.

13 Q Are you not listening to the
14 question that is being asked of you?

15 A Yes. Sometimes I get confused
16 because you're talking and he's screaming. It's
17 kind of loud.

18 Q Are you making fun of how I speak?

19 A No.

20 Q Your apology is accepted.

21 A Okay.

22 Q When does the paving season start?

23 A March 15th.

24 Q When does it end?

25 A December 23rd.

1 M. Fajardo

2 Q What if it snows in December, can
3 you still pave?

4 A No.

5 Q What if there is snow on the
6 ground in March, can you pave?

7 A No.

8 Q So it doesn't always start March
9 15th, does it?

10 A Yes. We do start because we start
11 preparing everything.

12 Q Do you start working full-time in
13 March?

14 A No.

15 Q Just a couple of days a week,
16 correct?

17 A Yes.

18 Q Sometimes you don't even start
19 working full-time until April, correct?

20 MR. WALLACE: Objection.

21 A No.

22 Q Sometimes you can't work in
23 December when the ground is frozen, correct?

24 A Yes. But we always work.

25 Q But not full-time, correct?

1 M. Fajardo

2 MR. WALLACE: Objection.

3 A Unless it's raining.

4 Q Sometimes it rains for a week at a
5 time, correct?

6 MR. WALLACE: Objection.

7 A Yes.

8 Q When it rains for that much, you
9 don't work, do you?

10 A Sometimes they send us home during
11 the week, but we always work. When it's raining
12 during the week, maybe they send us one day or
13 two days.

14 Q Did you ever get any bonus
15 payments from defendants?

16 A No.

17 Q Did you ever keep a log of how
18 many hours you worked on a particular day?

19 MR. WALLACE: Objection.

20 A Yes. We would give Tommy a copy
21 of what we had.

22 Q Was that a daily sheet?

23 A Yes.

24 Q So you gave him a sheet for every
25 day you worked, correct?

1 M. Fajardo

2 A Yes. And there was a weekly one,
3 as well.

4 Q So which did you provide him with;
5 a daily or a weekly?

6 A I would always almost give him the
7 weekly one.

8 Q Always almost give him a weekly
9 one, but never quite give him one, right?

10 MR. WALLACE: Objection.

11 A Yes, always.

12 Q Always not quite give it to him?

13 MR. MCNAMARA: Objection.

14 MR. WALLACE: Objection, asked and
15 answered.

16 Q You can answer.

17 A Yes, the weekly one, always. The
18 daily, I never -- I think I filled it out two or
19 three times.

20 Q Did you fill the weekly out once a
21 week?

22 A Yes.

23 Q You didn't fill out the weekly one
24 on a daily basis?

25 A No.

1 M. Fajardo

2 Q You would have to think of what
3 days you worked and what hours you worked and
4 fit it in on the sheet, correct?

5 A Yes. Because the truth is that I
6 hardly had time to eat.

7 Q You seemed to have changed that.

8 MR. WALLACE: Come on.

9 Q Is that still the case, do you
10 have time to eat now?

11 A No. Now I eat well, now they're
12 giving me my thirty minutes, my fifteen-minute
13 break.

14 Q You never took a lunch break?

15 A Sometimes we would take
16 fifteen minutes, max.

17 Q And the GPS never indicated that
18 you went to a deli every morning?

19 MR. WALLACE: Objection.

20 A Yes.

21 Q Yes, they did show that?

22 A Yes, the truck.

23 Q And you weren't in the truck?

24 A When I would go straight to work,
25 I would eat before getting to work.

1 M. Fajardo

2 Q What would you eat?

3 A Food.

4 Q Egg sandwich?

5 A Yes.

6 Q How do you like your egg sandwich?

7 A Fried, over easy.

8 Q With bacon?

9 A No.

10 Q Sausage?

11 A Ham.

12 Q That is what you would eat every
13 morning?

14 A Yes.

15 Q Whether you drove to work directly
16 or whether or not you went in the truck,
17 correct?

18 MR. WALLACE: Objection, compound
19 question.

20 A I would go in the truck with
21 Carlos.

22 Q That would be after you went to
23 the shop?

24 MR. WALLACE: Objection, asked and
25 answered.

1 M. Fajardo

2 A Sometimes.

3 Q You went to Columbia during paving
4 season, did you not?

5 A Yes.

6 Q You went to see your mother in
7 Guatemala during the paving season, correct?

8 MR. MCNAMARA: Objection.

9 A When I went to see my mother, we
10 were not working.

11 MR. WALLACE: Renewing objection.

12 A It was not paving season.

13 Q Didn't you say you went to see
14 your mother in January 2008, then, in February,
15 you went to see your girlfriend, then, after
16 February, you went back to see your mother?

17 A Yes.

18 MR. WALLACE: Objection, asked and
19 answered.

20 Q In March to August, you stayed --

21 A January, February, March.

22 Q But you stayed in Guatemala until
23 August, correct?

24 A Yes. In June, I was coming here,
25 but I couldn't return.

1 M. Fajardo

2 Q Why?

3 MR. WALLACE: No, objection.

4 Do not respond.

5 Q That is the problem you asked for
6 the \$2,000 for?

7 A Yes.

8 Q From Carlos Escalante to pay a
9 lawyer?

10 MR. MCNAMARA: Objection.

11 A Yes.

12 Q That \$2,000 helped bring you back
13 here?

14 A No.

15 Q You used that \$2,000 for something
16 else?

17 A It was only to pay for an
18 attorney. It has nothing to do with coming.

19 Q The attorney had nothing to do
20 with your coming back?

21 MR. MCNAMARA: Objection.

22 MR. WALLACE: Objection.

23 A No.

24 Q What did you have the attorney
25 for?

1 M. Fajardo

2 MR. WALLACE: Don't answer that.

3 MR. ZABELL: He said the attorney
4 had nothing to do with his immigration
5 status, which means I'm entitled to ask
6 why he had to pay an attorney for.

7 MR. WALLACE: You're ignoring the
8 fact that earlier, he testified that it
9 was immigration.

10 MR. ZABELL: No, I'm not.

11 MR. WALLACE: He said it was
12 immigration.

13 MR. ZABELL: Let him answer what
14 the attorney was for, and if it's a
15 problem with immigration, we'll strike
16 it.

17 Q If the attorney was for
18 immigration, why did he not help you get back to
19 the United States?

20 MR. WALLACE: Objection.

21 Don't respond to that.

22 MR. ZABELL: That, he can.
23 Because what he has is an inconsistency
24 of what he said.

25 MR. WALLACE: It's going to open a

1 M. Fajardo

2 whole can of worms violating the Court
3 Order.

4 MR. ZABELL: We will strike it
5 just like I struck the last one. He
6 can't say that the attorney has nothing
7 to do with coming back to the United
8 States, and then say it was an
9 immigration attorney.

10 MR. WALLACE: I think the question
11 is a very open-ended question.

12 MR. ZABELL: You want to ask him
13 outside the room, I will give you that.

14 MR. WALLACE: He could get back in
15 the country, then have the problem, and
16 then have to hire the attorney.

17 MR. ZABELL: We don't know that,
18 and he said he needed the money before he
19 came back.

20 MR. WALLACE: What do you want him
21 to say?

22 MR. ZABELL: The truth.

23 Q If the attorney did not help you
24 get back in the country, then what did the
25 attorney help you do?

1 M. Fajardo

2 A Fix papers.

3 Q You needed to pay him before you
4 came back to the United States?

5 A No.

6 Q You paid him after you came to the
7 United States?

8 A Yes.

9 Q Don't you remember testifying that
10 Carlos Escalante was the only person you could
11 get in touch with?

12 A Yes.

13 Q And you could only get in touch
14 with him because you were out of the country,
15 correct?

16 A Yes.

17 Q Stop trying to explain.

18 A Can I speak to him about this?

19 Q Not yet.

20 You called up Carlos while you
21 were out of the country?

22 MR. WALLACE: Objection, asked and
23 answered.

24 A Yes.

25 Q Carlos got you the \$2,000 that he

1 M. Fajardo

2 borrowed from Lou to send to you?

3 A Yes.

4 Q You got the \$2,000 before you were
5 out of the country?

6 MR. WALLACE: Objection,
7 mischaracterization of his testimony.

8 A Yes.

9 Q Why were you lying about it?

10 MR. WALLACE: Objection.

11 A I'm not lying.

12 Q You were lying.

13 A I can't explain why I needed the
14 money.

15 Q You already did.

16 A How can I explain because it's
17 regarding an immigration case?

18 Q You got the money before you came
19 into the United States?

20 A Okay.

21 MR. WALLACE: Objection, asked and
22 answered.

23 Q Do you agree?

24 A Yes.

25 Q Do you want to speak to your

1 M. Fajardo

2 attorney now?

3 MR. WALLACE: Let's talk off the
4 record.

5 (Whereupon, a discussion was held
6 off the record.)

7 (Whereupon, a break was taken from
8 2:51 p.m. until 3:10 p.m.)

9 Q You had a nice conversation during
10 the break?

11 A Yes.

12 Q Was he pleasant?

13 A Yes.

14 Q Did he yell at you?

15 A No.

16 Q Did you yell at him?

17 A No.

18 Q All is good in the world?

19 A Yes.

20 Q You talked a little bit about what
21 we were discussing in this deposition?

22 MR. WALLACE: You shouldn't ask
23 that.

24 MR. ZABELL: I'm not asking about
25 the content, I'll move on.

1 M. Fajardo

2 A Yes.

3 Q Did you ever speak to a detective
4 regarding your claims against defendants?

5 A No.

6 Q Do you ever speak to the police?

7 A No.

8 Q Have you ever been arrested?

9 MR. WALLACE: Objection.

10 A No, no.

11 Q Either here or in any other
12 country?

13 MR. WALLACE: Objection.

14 A No.

15 Q Are you sure?

16 A Yes.

17 Q You know what the penalty is for
18 not telling the truth at a deposition?

19 A Okay.

20 Q Do you; yes or no?

21 A Yes.

22 Q What is the penalty?

23 A Arrest one.

24 Q No.

25 A Well, I don't know, then.

1 M. Fajardo

2 Q Why did you tell me that you know
3 if you don't know?

4 MR. WALLACE: Objection.

5 A Because I thought it was being
6 arrested, I don't lie.

7 Q Ever?

8 A Yes, I said if one lies --

9 Q You didn't say, I don't lie?

10 A No, didn't say that.

11 Q Do you lie?

12 A Depends.

13 Q What does it depend on?

14 A If it's having to do with
15 conquering a woman.

16 MR. WALLACE: Off the record.

17 (Whereupon, a discussion was held
18 off the record.)

19 Q You will admit to lying to get
20 what you want?

21 MR. WALLACE: Objection.

22 A Not for everything, you can't lie.
23 Only for things with my family, that is it.

24 Q You lie about things with your
25 family?

1 M. Fajardo

2 MR. WALLACE: Objection.

3 A Yes, sometimes.

4 Q Like what?

5 A For example, once I lied to my
6 wife saying that I was working, and I was
7 drinking with my friends.

8 Q Does your wife know about your
9 girlfriend in Columbia?

10 MR. WALLACE: Objection.

11 A Yes.

12 Q Did you lie to your wife to
13 conquer her?

14 A Yes.

15 Q Did you lie to your girlfriend to
16 conquer her?

17 A Yes.

18 Q Do you ever lie to your mother?

19 A No.

20 Q Is she the only woman that you
21 never lied to?

22 MR. WALLACE: Objection.

23 A No, she's not the only one.

24 Q Who are some of the women that you
25 never lied to?

1 M. Fajardo

2 A My daughter, my mother, and my
3 aunts.

4 MR. WALLACE: Running objection.

5 Q Does your daughter know about your
6 girlfriend in Columbia?

7 A Yes.

8 Q When did you tell your daughter
9 about your girlfriend in Columbia?

10 A When I met her.

11 Q Your daughter?

12 A My girlfriend.

13 Q Did you meet your girlfriend in
14 America or Columbia?

15 A Columbia.

16 Q Was your daughter with you in
17 Columbia?

18 A No.

19 MR. WALLACE: Standing objection
20 to the use of the word lying and to that
21 whole line of questioning.

22 Do you want to ask him to expand
23 on what he means by lying?

24 MR. ZABELL: No. He's made it
25 perfectly clear that he's willing to lie

1 M. Fajardo

2 to people to get what he wants.

3 MR. WALLACE: Objection.

4 A I don't have to lie to everyone.

5 Q Only to some people?

6 A Yes. But it's not a malicious
7 lie.

8 Q No. You just lie to get what you
9 want?

10 A No. Because I'm not looking for
11 anything, I want them to feel good.

12 Q If you're looking for something?

13 MR. WALLACE: Objection.

14 MR. MCNAMARA: Objection.

15 A No.

16 Q You only lie to make people feel
17 good?

18 MR. WALLACE: Objection.

19 A The people that I lied to, yes.

20 Q It has nothing to do with you
21 trying to conquer a woman, as you said before?

22 MR. WALLACE: Objection.

23 A Only two people, my wife and my
24 girlfriend.

25 Q What about your current

1 M. Fajardo

2 girlfriend?

3 A No.

4 Q You never lied to her?

5 A No, she's tough.

6 Q Not even a little bit?

7 A No.

8 Q You never told her she looked
9 pretty when she didn't look pretty?

10 A No.

11 Q You never told her that the dress
12 makes her look thin?

13 MR. MCNAMARA: Off the record.

14 (Whereupon, a discussion was held
15 off the record.)

16 Q Did you ever lie as a child?

17 A I don't recall.

18 Q How old are you now?

19 A Thirty-seven.

20 Q You've lied about your name?

21 MR. WALLACE: Objection.

22 A I didn't lie because I explained
23 why I used that name.

24 Q You explained why you used the
25 name that didn't belong to you.

1 M. Fajardo

2 MR. WALLACE: Objection.

3 A The first name is mine, the last
4 name is my father's.

5 Q But the first name is not your
6 first name, it's your middle name?

7 A Correct.

8 Q So you used a name to get
9 something that you needed?

10 MR. MCNAMARA: Objection.

11 MR. WALLACE: Objection.

12 Q Correct?

13 A Yes.

14 Q You did this as a result, correct?

15 A Yes.

16 Q So you could conquer something,
17 correct?

18 A Why are you talking about
19 conquering something?

20 Q Just answer the question.

21 A I didn't lie, because I don't
22 understand in what way I lied there.

23 Q You started working for the
24 defendants in what year?

25 A 1998.

1 M. Fajardo

2 Q Who did you work for in 1998?

3 A For a landscaping company.

4 Q What was the name of that company?

5 A I don't recall.

6 Q Who did you work for in 1999?

7 A For Suffolk Paving.

8 Q Did you work for Suffolk Paving in
9 1998?

10 A Yes.

11 Q What did you do for Suffolk Paving
12 in 1998?

13 A I was raker, a laborer.

14 Q Were you an operating engineer in
15 1998?

16 A No.

17 Q Were you an operating engineer in
18 1999?

19 A No.

20 Q Were you an operating engineer in
21 the year 2000?

22 A No.

23 Q Were you an operating engineer in
24 the year 2001?

25 A Yes.

1 M. Fajardo

2 Q Was 2001 the year that you went
3 into the union?

4 A No.

5 Q How were you an operating engineer
6 in 2001?

7 A Because Mr. Louis Vecchia didn't
8 have anyone to operate the machines, and he told
9 me to get up on the machine and operate it
10 myself.

11 Q Was your title changed?

12 A No.

13 Q Did Mr. Vecchia give you that
14 opportunity?

15 A Yes.

16 Q Did you enjoy being given the
17 opportunity?

18 A Yes.

19 Q Did you appreciate being given
20 that opportunity?

21 A Yes.

22 Q Were you paid for the work that
23 you had done?

24 A Yes.

25 Q That was in what year?

1 M. Fajardo

2 A 2001.

3 Q In 2001, were you paid everything?

4 A Not the overtime hours.

5 Q But yet, you continued to work for

6 Suffolk Paving, correct?

7 A Yes.

8 Q How many hours a week did you work

9 in 1998?

10 A I don't recall.

11 Q How many hours a week did you work

12 in 1999?

13 A I don't recall.

14 Q How many hours a week did you work

15 in the year 2000?

16 A I don't recall.

17 Q How many hours a week did you work

18 in 2001?

19 A 2001, we would work almost ten

20 hours.

21 Q How many hours a week did you work

22 in 2002?

23 A I don't recall that, either.

24 Q How many hours a week did you work

25 in 2003?

1 M. Fajardo

2 A Pretty many hours like sixteen,
3 seventeen, sometimes we worked ten, but we never
4 worked eight hours, nor six hours.

5 Q How many hours a week did you work
6 in 2004?

7 A More than forty hours.

8 Q How many hours a week did you work
9 in 2005?

10 A More than forty hours, as well.

11 Q How many hours a week did you work
12 in 2006?

13 A More than forty.

14 Q How many hours a week did you work
15 in 2007?

16 A More than forty.

17 Q How many hours a week did you work
18 in 2008?

19 A More than forty.

20 Q How many hours a week did you work
21 in 2009?

22 A More than forty.

23 Q For the years that you worked more
24 than forty hours a week, weren't there weeks
25 that you didn't work forty hours?

1 M. Fajardo

2 A No. We almost always worked forty
3 hours.

4 Q Almost always, but there were some
5 weeks that you didn't work forty?

6 A Yes.

7 Q There were some weeks that were
8 cut short because of the weather, correct?

9 A Yes.

10 Q There were some years where you
11 disappeared for six or seven months; is that
12 correct?

13 A Yes.

14 MR. WALLACE: Objection.

15 Q It was more than one year,
16 correct?

17 MR. WALLACE: Objection.

18 A No, only one time, one year.

19 Q You up and disappeared for seven
20 months?

21 MR. MCNAMARA: Objection.

22 A Yes.

23 Q How long was your mother sick
24 during that time?

25 A I have to answer?

1 M. Fajardo

2 Q Yes, you have to answer.

3 A For about six months.

4 Q So she was sick during the period
5 of time that you left to see your girlfriend?

6 A She was sick before I went to see
7 her.

8 Q After you went to see her, she was
9 not sick?

10 MR. WALLACE: Objection.

11 The Court had already ruled on
12 this, you don't have to go back to that.

13 Q You can answer.

14 A Before me going to Columbia, my
15 mother was sick.

16 Q After you went to Columbia, did
17 she get better?

18 A Yes.

19 Q Was it because you went to visit
20 her?

21 A Yes.

22 Q So you made your mother better?

23 MR. WALLACE: Objection.

24 A Yes.

25 Q Just the presence of your company

1 M. Fajardo

2 made her better?

3 MR. MCNAMARA: Objection.

4 MR. WALLACE: Let's take a break.

5 A Yes.

6 MR. WALLACE: Let's take a break.

7 Q Just a few more questions
8 regarding your mother.

9 MR. WALLACE: You're joking.

10 Q Was your mother feeling better
11 when you went to Columbia?

12 A Yes.

13 Q Was she better by the time you
14 returned to Guatemala?

15 A A little.

16 Q But the time you left Guatemala
17 and came back to the United States, was she all
18 better?

19 A Yes. Because she was in Seattle,
20 Washington.

21 Q When did she go to Seattle,
22 Washington?

23 A She lives in Washington. She only
24 went to Guatemala for the surgery.

25 Q When did she return to Seattle,

1 M. Fajardo

2 Washington?

3 A On June 23rd.

4 Q Of what year?

5 A 2008.

6 Q So she made it back to the United
7 States before you?

8 A Yes.

9 Q Did you pay for her travel to the
10 United States?

11 A All of my siblings and me.

12 Q Is that a yes?

13 A Yes.

14 Q Do you visit her here in the
15 United States?

16 A Yes.

17 Q When in 2009 did you visit her in
18 the State of Washington?

19 A September of 2009, when I got
20 fired.

21 Q For how long did you visit her in
22 September 2009?

23 A Three days.

24 MR. WALLACE: He is only asking
25 about the dates for the lawsuit.

1 M. Fajardo

2 Q Is she okay now?

3 A Yes.

4 Q That's good.

5 Did you drive out to Seattle,
6 Washington to see her, or did you fly there?

7 A No, my brother came to get me.

8 Q In a car?

9 A In a car, yes.

10 Q So you drove out to see her?

11 A My brother drove with his wife.

12 Q And you sat in the backseat?

13 A No, in the front.

14 Q Who sat in the backseat?

15 A My brother's wife.

16 Q Was she okay with that?

17 A Yes, because she was sleeping.

18 Q The whole time?

19 A Almost always.

20 Q It took three days to get there?

21 A Three-and-a-half days.

22 Q How many days to drive back?

23 A It was not three days exactly. It
24 was almost three days, because it was just me
25 and my brother.

1 M. Fajardo

2 Q You drove?

3 A No.

4 Q Your brother drove?

5 A Yes.

6 Q The whole time?

7 A He has a stick shift and I can't
8 drive a stick.

9 Q You must be a lot of fun to drive
10 with.

11 So your brother drove for three
12 days straight?

13 A Yes, but he stopped.

14 Q It took three days to drive there,
15 you stayed three days, and then three days to
16 drive back?

17 A Yes. Because my mother was going
18 to go to my other brother's.

19 Q Where does he live?

20 A In Houston.

21 Q Did you visit your other brother
22 in Houston?

23 A No.

24 Q You don't like him?

25 A No, we don't have communication.

1 M. Fajardo

2 Q Why, because you don't like him?

3 A No. Because he is the eldest, and
4 he's the one that would keep us indoors to keep
5 us straight.

6 Q Did you ever lie to him?

7 A No.

8 Q Un poquito?

9 A No.

10 Q So when in September 2009 did you
11 drive to see your mother, what day?

12 MR. WALLACE: Objection, asked and
13 answered.

14 A It's -- that was at the end of
15 September.

16 Q How soon after you stopped working
17 for Suffolk Paving did you go see your brother?

18 A I was not working for Suffolk
19 Paving.

20 Q Who were you working for?

21 A No one.

22 MR. WALLACE: Listen to the
23 question.

24 Can you repeat the question?

25 MR. ZABELL: I have his answer.

1 M. Fajardo

2 You'll get the transcript.

3 MR. WALLACE: The question after
4 you stopped working for Suffolk Paving.

5 MR. ZABELL: Stop talking, please,
6 okay? Is that a yes? Thank you, sir.

7 Q You're suing just for overtime,
8 correct?

9 MR. WALLACE: Objection.

10 A Yes.

11 Q But you don't know how much
12 overtime you're owed, correct?

13 MR. WALLACE: Objection.

14 A We have an idea, according to the
15 sheets that we have.

16 Q What is that idea?

17 A It's fourteen, fifteen hours
18 weekly.

19 Q Fifty-two weeks a year?

20 A It's nine months. I don't know
21 how many weeks.

22 Q Do you know how many weeks are in
23 a month?

24 A Four.

25 Q Do you have a number in mind that

1 M. Fajardo

2 you think you're suing for?

3 A No.

4 Q What union are you a member of?

5 A 138.

6 Q Did you ever check your union
7 contract to see if you were being paid
8 correctly?

9 A Yes. Because they send me copies
10 weekly.

11 Q The union sends you copies of your
12 check weekly?

13 A Yes.

14 Q In English or Spanish?

15 A English.

16 Q Do you read English?

17 A Yes. Because their numbers.

18 Q Your contract is just in numbers?

19 A It only says, for example, a week,
20 the company where one works, and how many hours
21 they pay.

22 Q Did Louis Vecchia treat you
23 fairly?

24 MR. WALLACE: Objection.

25 A Sometimes.

1 M. Fajardo

2 Q Did he try to help you when you
3 needed help?

4 A Yes.

5 Q You received a paycheck every week
6 from him?

7 MR. MCNAMARA: Objection.

8 A Yes.

9 Q He always tried to find work for
10 you when there was no work, correct?

11 MR. WALLACE: Objection.

12 A Yes.

13 Q What prevailing wage projects did
14 you work on?

15 MR. WALLACE: Objection.

16 A Schools, roads, and there was a
17 company called the Water Touring where the water
18 dams are.

19 Q What schools did you work in?

20 A I don't recall, but a few.

21 Q Do you recall any of the names?

22 A No.

23 Q What roads did you work on?

24 A A few, but I don't remember.

25 Q You can't recall any of the names?

1 M. Fajardo

2 A The only one that I remember was
3 because when I was coming here, it was Carleton.

4 Q Carleton what?

5 A Carleton Street.

6 Q What dams did you work on?

7 A The water one.

8 Q Are there any other type?

9 A No.

10 Q Do you recall the name?

11 A Water Touring.

12 MR. WALLACE: Wood Authority.

13 MR. ZABELL: Counselors, your jobs
14 are not here to help. If he cannot
15 recall, you cannot help him.

16 Don't even try to speak to defend
17 yourself. Your job is not here to help.
18 Am I clear?

19 MR. WALLACE: I made his word --

20 MR. ZABELL: Am I clear?

21 MR. WALLACE: What is my job?

22 MR. ZABELL: Your job is to object
23 to questions that are objectionable, and
24 beyond that, remain silent. That goes
25 for both of you.

1 M. Fajardo

2 Am I perfectly clear? You're
3 shaking your head, but I need a verbal.

4 MR. MCNAMARA: Verbally, I would
5 say yes.

6 MR. ZABELL: You're nodding, I
7 need a verbal response.

8 MR. WALLACE: You're being very
9 clear.

10 MR. ZABELL: Thank you.

11 Q Do you have an idea as to how much
12 money you're suing Louis Vecchia for?

13 MR. MCNAMARA: Objection.

14 A No.

15 Q No idea at all?

16 A I think it's more than \$100,000.

17 Q When was the last year that you
18 earned more than \$100,000?

19 MR. MCNAMARA: Objection.

20 A I don't recall. I think it was in
21 2008 or -- no, 2007 or 2009, something like
22 that.

23 Q You made more than \$100,000 in
24 2009?

25 A Yes.

1 M. Fajardo

2 Q How much money did you make in
3 2009?

4 A I don't know. I know there was
5 one year that I made more than \$100,000, but I
6 don't remember.

7 Q You were working for Suffolk
8 Paving, right?

9 A Yes.

10 Q Did you pay taxes?

11 A Yes.

12 Q You filed an income tax return?

13 A Yes.

14 Q Under what Social Security number
15 did you use?

16 MR. WALLACE: Objection.

17 A My Social Security and with a pin
18 number that the IRS gave me.

19 Q What is your Social Security
20 number?

21 MR. WALLACE: Objection. We have
22 to mark this as confidential.

23 MR. ZABELL: I'll mark it as
24 confidential.

25 Q What is your Social Security

1 M. Fajardo

2 number?

3 A [REDACTED].

4 MR. WALLACE: You have his Social
5 Security number.

6 MR. ZABELL: We'll make a copy and
7 we'll mark it.

8 MR. WALLACE: Taken under
9 advisement.

10 MR. ZABELL: Is there anything on
11 there that you're concerned about?

12 MR. WALLACE: He has given you the
13 Social Security number.

14 MR. ZABELL: I want to see it on
15 the card.

16 MR. WALLACE: No.

17 MR. ZABELL: We made a demand for
18 it.

19 MR. WALLACE: I am withholding it.

20 MR. ZABELL: Does it say that he's
21 not authorized to work?

22 Q What's your Social Security
23 number?

24 A [REDACTED].

25 MR. ZABELL: Is that accurate?

1 M. Fajardo

2 MR. MCNAMARA: That is accurate.

3 Q What is your date of birth?

4 A [REDACTED]

5 Q What address?

6 A [REDACTED]

7 [REDACTED].

8 Q Is that the address and Social
9 Security number you use when you filed for
10 unemployment benefits?

11 A Yes.

12 Q Are there currently any child
13 support orders ordering you to pay child
14 support?

15 MR. WALLACE: Objection.

16 Q You may answer.

17 A No. Because I pay child support
18 directly from my check.

19 Q So they take the money right out
20 of your check?

21 A Yes.

22 Q Is that by Order of the Court?

23 A Yes.

24 Q Is that because you didn't pay
25 child support before?

1 M. Fajardo

2 MR. WALLACE: Objection.

3 A No. I went to have it done.

4 Q So you asked that they garnish
5 your check?

6 A Yes.

7 MR. WALLACE: Objection.

8 Q Do you know who the other
9 plaintiffs are in this case?

10 MR. WALLACE: Objection, asked and
11 answered.

12 Q Do you know who the other
13 plaintiffs are in this case?

14 A Yes.

15 Q Who are they?

16 A Jose -- I don't remember their
17 last names, and some of them, I do. Jose
18 Castillo, Carlos Escalante, Nelson Quintanilla,
19 Javier, Walter Garcia, Pracelis Mendez, Marcus
20 Tulio, I think also Osmar, and I don't remember
21 the rest of the names.

22 Q When was the last time you spoke
23 with them?

24 A Quite some time ago.

25 Q Do you know why you were fired

1 M. Fajardo

2 from Suffolk Paving?

3 MR. WALLACE: Objection, asked and
4 answered.

5 A No.

6 Q Do you have any idea why you were
7 fired?

8 A Because I think the boss wanted to
9 put his son Chris Vecchia in charge of the
10 group.

11 Q Did you tell that to your
12 attorney?

13 A Yes.

14 Q Do you think that was the only
15 reason why you were fired?

16 A Yes.

17 Q Did the boss put his son in charge
18 of the group?

19 A Yes.

20 Q Do you think that Louis Vecchia,
21 wanting to put his son in charge of the group,
22 do you think that was malicious?

23 A I think it was, because since I
24 was complaining a lot about my overtime hours, I
25 think it was.

1 M. Fajardo

2 Q Do you think he wanted to put his
3 son in charge of the group was intent to harm
4 you?

5 A Maybe in order to fire me, yes.

6 Q But if the son was in charge of
7 the group, did he need to have you around?

8 MR. WALLACE: Objection.

9 A Yes.

10 Q Why did he need to have you around
11 if he had his son in charge of the group?

12 MR. WALLACE: Objection.

13 A Why? Because I was the one that
14 did all of the production, always.

15 Q What if he wanted someone else to
16 do the production?

17 A He put many people for days, but
18 it never worked. He always put me back.

19 Q Maybe he trusted his son more than
20 he trusted you.

21 MR. WALLACE: Objection.

22 A Maybe.

23 Q Is he allowed to do that?

24 MR. WALLACE: Objection.

25 A It's his company.

1 M. Fajardo

2 Q Does he have to continue to employ
3 you?

4 A No.

5 Q Did he have a right to fire you?

6 MR. WALLACE: Objection.

7 A No.

8 Q He has to keep you employed,
9 whether he wants you working for him or not?

10 A Yes.

11 MR. WALLACE: Objection.

12 Q You're guaranteed the job, no
13 matter what; is that what you're testifying to?

14 MR. WALLACE: Objection.

15 A Yes.

16 Q What makes you think that?

17 A Because I realized that he told
18 many people that his drivers have been saying
19 that the company won't be the same without me,
20 but he told that to many drivers and the drivers
21 have told me.

22 Q Are you saying that he didn't have
23 a right to fire you?

24 A No.

25 Q No matter what, he has to give you

1 M. Fajardo

2 a job, right?

3 MR. WALLACE: Objection.

4 A No.

5 Q So if he doesn't like you, does he
6 have to give you a job?

7 A No.

8 Q So he's allowed to fire you,
9 correct?

10 MR. WALLACE: Objection.

11 A Yes.

12 Q You have no guaranteed right to
13 employment with Suffolk Paving, correct?

14 A Correct.

15 Q So he can fire you, correct?

16 A Yes.

17 Q That made you angry that you were
18 fired, correct?

19 A Yes. Because he fired me without
20 any reason.

21 Q Does he need to have a reason to
22 fire you?

23 A I think so.

24 Q Why?

25 A Why? Because I worked for him for

1 M. Fajardo

2 twelve years, and he never said to me anything
3 was wrong about my work, only that we were slow
4 and since we worked slow, he was saying that we
5 worked a lot of hours of overtime.

6 Q Are you saying he had a right to
7 fire you?

8 MR. WALLACE: Objection.

9 A He had the right, because it's his
10 own company, but he didn't have a right to fire
11 me the way he did.

12 Q How did he fire you?

13 A Putting on Tommy and saying that
14 he no longer needed me.

15 Q But he didn't need you anymore,
16 did he?

17 A I don't know, because I didn't go
18 back to the company.

19 Q So you don't know if he needed you
20 or not?

21 A With what I heard, yes.

22 Q From whom did you hear?

23 A Drivers that work for him, people
24 that know me that we used to do work for Louis
25 Vecchia's company.

1 M. Fajardo

2 Q Who are they?

3 A Many companies.

4 Q Who?

5 A Lantex, we used to do a lot of
6 running tracks for them. They told me the work
7 without me wasn't going to come out the same,
8 that the quality was not the same.

9 Q Who else?

10 A I don't remember.

11 Q Do you remember any of the
12 drivers?

13 A One of them, but I don't remember
14 his name.

15 Q So you don't remember?

16 MR. WALLACE: Objection.

17 A No.

18 Q Any of your co-workers?

19 A Yes.

20 Q Who?

21 A Larry Rodriguez.

22 Q No way.

23 A Yes.

24 Q Who else?

25 A Juan Cantaros, and that's it,

1 M. Fajardo

2 because they were the only ones left there.

3 Q They all told you that the company
4 won't be the same without you?

5 A Yes.

6 Q That made you upset, right?

7 MR. WALLACE: Objection.

8 A Yes.

9 Q But you didn't want to go back?

10 A Yes, I did want to go back.

11 Q But you never called and left a
12 message for Louis Vecchia?

13 MR. WALLACE: Objection.

14 A No.

15 Q You didn't want to go back all
16 that bad?

17 MR. WALLACE: Objection.

18 A I didn't want to go back, because
19 I didn't do anything wrong for him to let me go,
20 and I think he should have called me to let me
21 go.

22 Q Do you remember earlier where you
23 said you made mistakes?

24 A Yes.

25 Q Do you remember earlier in the

1 M. Fajardo

2 deposition where you told me that Louis Vecchia
3 was complaining that you were working too slow?

4 MR. WALLACE: Objection.

5 A Yes.

6 Q Could you see how a boss could
7 think that those two things are their mistakes?

8 MR. WALLACE: Objection.

9 A Yes.

10 Q So you understand why he might
11 have fired you?

12 MR. WALLACE: Objection.

13 A Yes. But I don't think that was
14 the reason for him letting me go, that I was
15 working slowly.

16 Q But you don't know the reasons, do
17 you?

18 A No.

19 Q So that could have been the reason
20 he let you go?

21 MR. WALLACE: Objection.

22 A No. Because we didn't work
23 slowly. I worked in another company. I have
24 been doing asphalt for years. If you figure out
25 time to do a hundred tons, it's one hour, to do

1 M. Fajardo

2 two hundred-tons production machine is one hour.

3 So if we did two thousand tons, in
4 how many hours could we do two thousand tons?

5 Q But you also said you made
6 mistakes?

7 MR. WALLACE: Objection.

8 A Yes.

9 Q You made mistakes and he thought
10 you were working slow; is that correct?

11 MR. WALLACE: Objection.

12 A Yes.

13 Q That could be a reason why you
14 were fired, right?

15 A Yes.

16 Q You don't know if there was work
17 available for you to do, correct?

18 MR. WALLACE: Objection.

19 A Yes, there was.

20 Q How do you know?

21 A Because they had to pave every
22 day, and I was the one that did the pavement
23 work.

24 Q But you went off to visit your
25 mother in September after you got fired,

1 M. Fajardo

2 correct?

3 A Yes.

4 Q So you weren't available in
5 September?

6 A I didn't have work.

7 Q You weren't available in
8 September?

9 A I was available.

10 Q You were available to do paving in
11 Seattle, Washington?

12 MR. WALLACE: Objection.

13 A I was available, but since I
14 didn't have work, I left.

15 Q Maybe you would have had work if
16 you called and left a message for Louis Vecchia.

17 MR. WALLACE: Objection for the
18 tenth time.

19 You can answer.

20 Is that a question?

21 A Correct.

22 Q At that point, you had not filed a
23 lawsuit against Louis Vecchia and Suffolk
24 Paving, correct?

25 A No.

1 M. Fajardo

2 MR. MCNAMARA: Objection.

3 Q You can't say that you weren't
4 hired back because you filed a lawsuit against
5 Suffolk Paving, correct?

6 MR. WALLACE: Objection.

7 A Yes.

8 Q So if your lawyer said that you
9 were not allowed to come back to work because
10 you filed a lawsuit, they would be lying,
11 correct?

12 MR. WALLACE: Objection.

13 MR. MCNAMARA: Objection.

14 A I think so, because --

15 Q I think so, too.

16 A Because he found out that I sued,
17 he called me at the moment that he received the
18 letter, and he said he was going to sue me, as
19 well.

20 Q Who called you?

21 A Louis Vecchia.

22 Q When did Louis Vecchia call you?

23 A The day he saw the letter in
24 December.

25 Q December what?

1 M. Fajardo

2 A I don't remember the date.

3 Q Why did he say he was going to sue
4 you?

5 A Because he said that I owed him
6 money from a truck.

7 Q And you do?

8 A No.

9 MR. MCNAMARA: Objection.

10 MR. WALLACE: Objection.

11 Q You borrowed money from Louis
12 Vecchia in 2008, correct?

13 A Yes.

14 Q A lot of money, correct?

15 MR. WALLACE: Objection, asked and
16 answered.

17 A Yes.

18 Q A lawsuit was brought a year after
19 you borrowed that money to get that money back?

20 A Excuse me, I didn't understand.

21 Q You borrowed the money in 2008.
22 In 2009, you were sued to get the money back,
23 correct?

24 MR. WALLACE: Objection, asked and
25 answered.

1 M. Fajardo

2 A Lou sued me. That's what I didn't
3 understand.

4 Q Now that you understand it, answer
5 the question.

6 A If Louis called me -- you're
7 asking if Louis called me to sue me about the
8 truck?

9 Q No.

10 A That is the only reason why Louis
11 called me.

12 Q Do you remember any of the jobs
13 you worked on?

14 MR. WALLACE: Objection, asked and
15 answered.

16 A No.

17 Q You don't remember a single name?

18 A No. I remember how to get to the
19 places, but not the names.

20 MR. ZABELL: Let's take a short
21 break.

22 (Whereupon, a recess was taken
23 from 3:27 p.m. until 3:30 p.m.)

24 MR. WALLACE: Can you read back
25 the bit about the lawyers?

1 M. Fajardo

2 (Whereupon, the requested
3 testimony was read back by the court
4 reporter.)

5 Q Sir, you just took a break,
6 correct?

7 A Yes.

8 Q Did you have an opportunity to
9 speak to your Counsel during that break?

10 A Yes.

11 Q Did you discuss this deposition?

12 MR. WALLACE: Don't respond. You
13 can't talk about what you said.

14 Q Did you have an opportunity to
15 discuss the deposition?

16 A Yes.

17 Q Thank you.

18 See, that was not so difficult,
19 was it?

20 A No. It was only -- I only spoke
21 to him that we're speaking about my mother's
22 health.

23 Q Lots of things happen when you sue
24 people. You understand that when you put your
25 honesty and your integrity into a lawsuit, we're

1 M. Fajardo

2 entitled to question you on that?

3 A Yes.

4 Q If it turns out in that
5 questioning that you don't come across so
6 honest, we get to present that to a jury.

7 MR. WALLACE: Objection.

8 Is there a question?

9 Q You understand that?

10 A Yes.

11 Q I believe before the break, I was
12 asking you if you could name any of the jobs
13 that you worked on when you worked for Suffolk
14 Paving.

15 A No, I don't remember the jobs. I
16 know how to get to the places, but not the
17 names.

18 Q Do you remember any of your
19 specific hourly rates?

20 MR. WALLACE: Objection, asked and
21 answered.

22 A Over the years -- over some years,
23 yes, from 2003, I think.

24 Q So you remember what your rate was
25 in 2003?

1 M. Fajardo

2 MR. MCNAMARA: Objection.

3 A It was between \$48 and \$49, up to
4 2007 or 2008.

5 Q Are you sure?

6 A Something like that, but I have to
7 look at my stubs.

8 Q Did you work with any employees
9 that didn't work very hard when they came the
10 work?

11 MR. WALLACE: Belated objection.

12 A Before 1998, 1999 and 2000.

13 Q But after 2000, everyone worked
14 really hard?

15 A From 2001 to 2009, yes.

16 Q Are you sure of that?

17 MR. WALLACE: Objection.

18 A Yes.

19 Q Do you know if all of your
20 co-workers are going to say the same thing about
21 you?

22 MR. WALLACE: Objection.

23 MR. MCNAMARA: Objection.

24 A Yes.

25 Q You worked hard every day?

1 M. Fajardo

2 A Yes.

3 Q You never rested on the job?

4 A There were days that we waited,
5 because the plant was not working right.

6 Q That's when you played baseball,
7 right?

8 MR. WALLACE: Objection.

9 MR. MCNAMARA: Objection.

10 A Sometimes.

11 Q The other workers would play
12 soccer?

13 MR. WALLACE: Objection.

14 A Not all of them.

15 Q But some of them?

16 A Yes.

17 Q These were all people that you
18 supervised?

19 MR. WALLACE: Objection.

20 A Yes.

21 Q Did you get paid extra pay for
22 being a supervisor?

23 A No.

24 Q Did you get a supervisor rate of
25 pay?

1 M. Fajardo

2 A No.

3 MR. ZABELL: I'm going to take a
4 quick break.

5 (Whereupon, a recess was taken
6 from 4:23 p.m. until 4:44 p.m.)

7 (Check copy was marked as
8 Defendants' Exhibit 7 for identification,
9 as of this date.)

10 Q I'm going to show you a document
11 that was marked as Defendants' 7.

12 Do you know what that document is?

13 A Yes.

14 Q How much of that check have you
15 paid back?

16 MR. WALLACE: Objection, asked and
17 answered.

18 A Nothing.

19 Q This was a loan to you, correct?

20 MR. WALLACE: Objection, asked and
21 answered.

22 A Yes.

23 Q You deposited this check into your
24 account?

25 A Yes.

1 M. Fajardo

2 Q Who gave you this check?

3 A Louis Vecchia.

4 Q And you never repaid it?

5 MR. WALLACE: Objection.

6 Q You can answer.

7 A I returned it to him in exchange
8 for a truck that he sold to me, Louis Vecchia.

9 (Letter dated 8/19/05 signed by
10 Maynor Fajardo was marked as Defendants'
11 Exhibit 8 for identification, as of this
12 date.)

13 Q I'm going to show you a document
14 that I am marking as Defendants' Exhibit 8.

15 A I already saw it.

16 Q Did you already look at that
17 document?

18 A Yes.

19 Q Did you already look at it good,
20 like your lawyer told you to?

21 A Yes.

22 Q Have you ever seen this document
23 before?

24 A No.

25 Q You never saw this document

1 M. Fajardo

2 before?

3 A No.

4 Q Didn't you tell me there was a
5 period of time that you went back to the name
6 Renato Guerra?

7 A Yes.

8 Q Is this signed by you?

9 A This is not my signature.

10 Q Whose signature is it?

11 A That is my name, when I used to
12 sign a truck, I used to sign it with this
13 signature (sic).

14 Q That's your name and that's your
15 signature?

16 A Yes.

17 MR. WALLACE: Objection.

18 Q You used to live at [REDACTED]
19 [REDACTED] correct?

20 A Yes.

21 Q Did you ever use the Social
22 Security number [REDACTED]?

23 A Yes, but it's not a Social
24 Security number. It's a pin number the IRS gave
25 me.

1 M. Fajardo

2 Q That's the number that you used to
3 use?

4 A Yes.

5 Q When you were presenting to be
6 Renato Guerra?

7 MR. WALLACE: Objection.

8 A Yes.

9 Q You could say you were
10 impersonating Renato Guerra, correct?

11 MR. WALLACE: Objection.

12 A Yes.

13 Q You agreed to pay \$42,000 for a
14 vehicle, didn't you?

15 MR. WALLACE: Objection.

16 A It wasn't \$42,000.

17 Q You agreed to pay the amount of
18 the vehicle for three years, correct?

19 MR. WALLACE: Objection.

20 A We never agreed on how many years
21 it was going to be. He simply told me that I
22 had to give him \$1,300 every month.

23 Q Did you agree to give him \$1,300
24 every month?

25 A Yes.

1 M. Fajardo

2 Q Did you agree that if you fall
3 behind on your payments, that they can come take
4 the vehicle from you, correct?

5 MR. WALLACE: Objection.

6 A We never spoke about that.

7 Q You didn't sign that in front of a
8 notary?

9 MR. WALLACE: Objection.

10 A No. She was our secretary; a
11 paper that I signed with Louis Vecchia about
12 Jose, that he was insuring my car, and he said
13 that he wanted me to sign that paper so Jose
14 wouldn't be able to take the car away from him
15 or me later. That was the only thing that both
16 of us signed, and there was no notary, either.

17 (Letter dated 8/19/04 signed by
18 Louis Vecchia was marked as Defendants'
19 Exhibit 9 for identification, as of this
20 date.)

21 Q I'm going to show you a document
22 that is Defendants' Exhibit 9.

23 Take a look at that document, sir.

24 A Okay.

25 Q Do you know who Jose Garrido

1 M. Fajardo

2 Wallace is?

3 A Yes.

4 Q Who is it?

5 A He's the one that had the
6 insurance for the truck.

7 Q Doesn't it indicate here that
8 Mr. Wallace believes that \$29,814 is owed on the
9 vehicle?

10 MR. WALLACE: Objection.

11 A Yes.

12 Q Doesn't this indicate that the
13 vehicle was repossessed?

14 MR. WALLACE: Objection.

15 A Yes.

16 Q Is that what I asked you earlier,
17 if the vehicle was repossessed?

18 MR. WALLACE: Objection.

19 A Yes.

20 Q And you said, no, the vehicle was
21 not repossessed?

22 A They went to get the vehicle and I
23 was not there.

24 Q Are you lying now or were you
25 lying before?

1 M. Fajardo

2 A I haven't lied in any way, and
3 when I returned from Columbia, he told me that
4 he was going to get the truck because of what I
5 owed him, and he said when I told him that I
6 paid more than the amount, he said that he still
7 owed me, and he give me \$2,000 more in December.

8 Q But Jose Garrido Wallace said that
9 owe you \$29,814.84 correct?

10 MR. WALLACE: Objection.

11 A Jose signed it, I didn't sign it.
12 Jose has nothing to do with it.

13 Q Didn't you say that Jose bought
14 the vehicle because you couldn't buy the
15 vehicle?

16 MR. WALLACE: I think he said --

17 MR. ZABELL: Ian, your job is to
18 object. Other than that, you need to
19 remain silent.

20 Q Who bought the vehicle, you or
21 Jose?

22 A I did.

23 Q Did you buy it in Jose's name?

24 MR. WALLACE: Objection, asked and
25 answered.

1 M. Fajardo

2 A No. Jose only insured it.

3 Q You didn't make payments while you
4 went first to Guatemala, then to Columbia?

5 A No. Because the truck -- in 2007,
6 Louis said it was already mine, because he
7 couldn't give me a raise.

8 Q But the union established your
9 rate of pay, correct?

10 MR. WALLACE: Objection.

11 A I still wasn't in the union. I
12 started in the union in the end of 2007.

13 Q Why did you wait until the end of
14 2007 to start in the union?

15 MR. WALLACE: Objection.

16 A Because Louis didn't want to put
17 me in the union, because I know it was a lot of
18 money, and he hired like eight workers from the
19 union, because all of us who were there, none of
20 us had a union.

21 Q Why would it cost Louis more to
22 put you in the union?

23 A Because he said that it was more
24 money, and that the people from the union took
25 money from others and that we didn't need that.

1 M. Fajardo

2 Q The union does take money from
3 your paycheck, right?

4 A Yes.

5 Q A lot of money, right?

6 A Yes.

7 Q That's money that you don't get,
8 correct?

9 MR. WALLACE: Objection.

10 A Not for now, but in the future,
11 yes.

12 Q Maybe.

13 A A hundred percent sure.

14 Q Don't be so sure.

15 A Well, there's proof that they have
16 to pay. For example, they take out for
17 vacation, they deduct for everything, supposedly
18 when you retire, they give you a salary.

19 Q We'll see.

20 A I hope so.

21 Q So once the union started making
22 deductions from your pay, you decided it was
23 time to sue Suffolk Paving, correct?

24 MR. WALLACE: Objection.

25 A No.

1 M. Fajardo

2 Q When did you decide to sue Suffolk
3 Paving?

4 A In 2009, after he let me go.

5 Q Did he let you go or you just
6 refused to come back?

7 MR. WALLACE: Objection, asked and
8 answered.

9 A He told me that he no longer
10 needed me, excuse me, Tommy.

11 Q But Louis never told you?

12 A No, but he sent Tommy, the
13 dispatcher, to tell me that he no longer needed
14 me.

15 Q Tommy said you should call Louis?

16 A Yes.

17 Q You never did?

18 MR. WALLACE: Objection, asked and
19 answered.

20 A I did once.

21 Q Never left a message?

22 A No.

23 Q Then, you went on vacation to
24 visit your mother?

25 A Yes.

1 M. Fajardo

2 Q And you never called again?

3 MR. WALLACE: Objection, asked and
4 answered.

5 A No.

6 Q Then, you were good and angry at
7 Louis?

8 A No.

9 Q Then, you decided to sue Louis?

10 MR. WALLACE: Objection.

11 A When I was looking for work at one
12 company, they told me that they couldn't give me
13 work because he was a friend of Louis.

14 Q What company told you that?

15 A I don't remember the name, but I
16 went to three, and when I went to the third one,
17 they told me that. Because I went to about six
18 or seven companies to look for work.

19 Q You weren't a friend of Louis,
20 were you?

21 MR. WALLACE: Objection.

22 A Louis really knew everyone.

23 Q But you were not a friend of
24 Louis, were you?

25 MR. WALLACE: Objection.

1 M. Fajardo

2 A I helped.

3 Q You mean you worked and you got
4 paid for work?

5 A Yes. The machinery would break
6 down, and it was not my job, and he would have
7 had to send a mechanic. He had ten trucks
8 parked. The company is not producing, so I
9 would get under machine, 400 degrees, and I
10 would help him, and I would start to fix the
11 machine, and there were times that the mechanic
12 would not come on time and I would fix it.

13 And I would think that meant that
14 I was supporting him and helping him as a friend
15 and worker.

16 Q That's what you think?

17 A Yes.

18 Q You don't think that's earning
19 your pay?

20 A No. Because my pay was only to
21 operate a machine and that's it. I would do
22 jobs for him. For example, sometimes the
23 operators on some machines would get backed up
24 because the parts were very hot, so I would get
25 on another machine to help the rest of the guys.

1 M. Fajardo

2 Q That's what you consider doing a
3 favor for him?

4 A Yes.

5 Q You don't see that as doing your
6 job?

7 MR. WALLACE: Objection.

8 A No. Because I did my job, as
9 well.

10 Q That was your job.

11 MR. WALLACE: Objection.

12 A Because the union does not allow
13 me to go from one machine to another and return
14 to another. They could take away my book if
15 they see I move from one machine to another.

16 Q Did the union take away your book?

17 A No. They wanted to give me a fine
18 once, because they put a person on there without
19 being in the union, and they said if I didn't
20 remove that person, they would take my book away
21 and they would fine me.

22 And I called Louis, and Louis said
23 not to worry, and he called the union guy, and
24 they took the guy away who didn't have a union,
25 who wasn't in a union, and we continued to work

1 M. Fajardo

2 at a slower pace.

3 Q How many times did the union
4 threaten to fine you?

5 A The union, only that time.

6 Q Really, you testified earlier that
7 the union threatened to fine you.

8 Were you lying then, or are you
9 lying now?

10 MR. WALLACE: Objection.

11 Q Were you lying then or now?

12 MR. WALLACE: Objection.

13 A He threatened me that time, and
14 the second time, they thought that I was not
15 working in the union anymore.

16 Q You were not working for the
17 union, you were working for cash, off the books?

18 MR. WALLACE: Objection.

19 A Yes.

20 Q And not reporting taxes?

21 A Yes. Like Louis did it. He would
22 give us a \$100 sometimes for overtime, and he
23 said that instead of paying so many taxes, that
24 he was going to give us \$100 so he didn't have
25 to pay the government.

1 M. Fajardo

2 Q So he would pay you overtime in
3 cash?

4 MR. WALLACE: Objection.

5 A Sometimes.

6 Q You didn't say that before. Do
7 you know that?

8 MR. WALLACE: Objection.

9 Q Were you hiding that from us?

10 MR. WALLACE: Objection,
11 mischaracterization of his testimony.

12 A No.

13 Q You just didn't want to say that
14 before?

15 A I didn't have the opportunity to
16 say that.

17 Q You have been taking the
18 opportunity to say a lot of things.

19 MR. WALLACE: Objection.

20 A Okay. There are things that you
21 have to remember, things that you have in your
22 mind in that moment. I am not going to study
23 everything that happened to me when I go to
24 court, think about everything that happened over
25 the twelve years.

1 M. Fajardo

2 I have my problems with my family,
3 my other job, and sometimes I can't remember
4 everything.

5 Q What kind of problems do you have
6 with your family?

7 MR. WALLACE: Objection.

8 A I think they're private.

9 MR. WALLACE: Don't answer that.

10 Q If you're saying that you have
11 problems with your family and it's affecting
12 your memory, I am entitled to know that.

13 MR. WALLACE: No, you're not.

14 A No. We're fighting a lawsuit
15 about wages, not about my private life, problems
16 with my family, and if I have problems with my
17 children, I have to go to court with child
18 support.

19 Q Are you not paying child support?

20 A No, I am paying.

21 Q All of it?

22 A They take it out of my check.

23 MR. WALLACE: Objection.

24 Q Before that, you weren't paying?

25 MR. WALLACE: Objection.

1 M. Fajardo

2 A I was paying and even more. That
3 is why I asked for child support.

4 Q Nobody believes you.

5 MR. WALLACE: Objection.

6 A Believe it or not.

7 MR. WALLACE: What Counsel
8 believes --

9 Q What type of problems with your
10 family are affecting your memory?

11 MR. WALLACE: Objection.

12 A I have -- for example, my daughter
13 is nineteen years old. She goes to school and I
14 think that sometimes when she rebels, her mother
15 calls me, and sometimes I'm working and I'm
16 thinking about my problems, how I am going to
17 speak with her.

18 I have two boys, they go camping,
19 they're Scouts, and sometimes I have to see -- I
20 have to figure out how to bring them to another
21 place.

22 For example, like when they go to
23 Scouts and things like that, if I can't do it,
24 because of my work, my wife starts to create
25 problems.

1 M. Fajardo

2 Q How many boys do you have?

3 A Two.

4 Q How old?

5 A Eleven and twelve.

6 Q Those are the only problems you
7 have?

8 MR. WALLACE: Objection. You're
9 not going to go into his family life.

10 A Yes.

11 Q Those aren't so bad.

12 A No. Do you have a
13 nineteen-year-old daughter? How old is your
14 daughter?

15 Q Not nineteen.

16 A The problems are greater when
17 you're separated, because you can't be with your
18 children always. You don't understand because
19 you're not separated with your wife.

20 Q How do you know?

21 A You just said you dropped off your
22 kids in the morning.

23 Q That means I'm not separated?

24 A I don't think so.

25 Q Okay. Is there anything else that

1 M. Fajardo

2 you can't remember?

3 MR. WALLACE: Objection.

4 A Ask me, maybe I'll remember, it
5 will come back to me.

6 Q How would you characterize your
7 memory; good, bad?

8 A When it's clear, good.

9 Q How was it today?

10 A Not very good.

11 Q Why?

12 A Because the problems that I have
13 with my children and ex-wife and with the
14 company, as well now, because the company has
15 problems with the owner but -- because the kind
16 of work that we're doing is a little difficult.

17 Q What kind of problems?

18 A For example, I can't really
19 explain it to you because you have never done
20 asphalt.

21 Q How do you know?

22 A When there are problems at work,
23 when there is no running water, we have to find
24 a way so that the water moves so we have to use
25 lines, levels and try to find a way how to

1 M. Fajardo

2 remove water, several feet of water.

3 Q Grading.

4 A How he has to grade the driveway
5 so the water goes away, so it doesn't ice up in
6 the winter.

7 Q That's why you can't remember what
8 is going on today?

9 MR. WALLACE: Objection,
10 mischaracterization.

11 A I have a lot of things in my mind.

12 Q Like what?

13 A Like I said, problems. I can't
14 say all of my problems here.

15 Q Tell me these problems that are
16 keeping you from remembering so good.

17 MR. WALLACE: I think he said
18 enough.

19 A I think that things that you're
20 asking me, you're -- but if you -- if I start to
21 think about more things and that's when I can't
22 remember, when you ask them to me in a different
23 way.

24 Q What other problems do you have
25 that's keeping you from remembering? You have a

1 M. Fajardo

2 nineteen-year-old daughter, you have
3 an eleven-year-old son and twelve-year-old son?

4 A And my girlfriend is five months
5 pregnant.

6 Q Does she live with you?

7 A No. And that's my problem.

8 Q Does she live with somebody else?

9 A With her mother.

10 Q How old is she?

11 A Thirty.

12 Q For how long have you been dating
13 her?

14 MR. WALLACE: Oh, come on.

15 A One year.

16 Q You never lied to her?

17 A No, not to her.

18 Q Is that what's keeping you from
19 remembering so well today?

20 MR. WALLACE: Objection.

21 A It's not that I don't remember.
22 It's when you ask me a question again, then I
23 remember things that also happened; if now
24 you're asking me the day before yesterday.

25 Q Where did you work yesterday?

1 M. Fajardo

2 A In Queens.

3 Q Where did you work the day before
4 yesterday?

5 A I think we went to the Bronx.

6 Q So you do remember where you
7 worked the day before yesterday?

8 MR. WALLACE: Objection.

9 A Yes. But it's difficult for me to
10 remember, because we don't go to the same place
11 everyday. We go to different places everyday.
12 We don't come back for two months.

13 MR. WALLACE: Listen to the
14 question, answer the question, that's it.

15 Q Were there any other problems
16 going on in your life?

17 A No.

18 Q How can I help you with your
19 problems?

20 MR. WALLACE: Objection.

21 A You can't.

22 Q Why can't I help you with your
23 problems?

24 MR. WALLACE: Objection.

25 A You couldn't.

1 M. Fajardo

2 Q You make a good living, right?

3 MR. WALLACE: Objection.

4 A Yes.

5 Q Are you looking to make big money
6 on this lawsuit to help you with your problems?

7 A The money, it's not the problem.

8 Q How much money are you looking for
9 from this lawsuit?

10 MR. WALLACE: Objection.

11 A I'm not asking for an amount, just
12 what is fair.

13 Q What amount is fair?

14 MR. WALLACE: Objection.

15 A We have to figure everything out.
16 We have to see the hours, the hours that he
17 owes.

18 Q How many hours does he owe?

19 MR. WALLACE: Objection.

20 A I would have to count them all.

21 MR. WALLACE: Objection.

22 Q You haven't yet?

23 MR. WALLACE: Objection.

24 A He pretty much knows (indicating).

25 Q He knows, ask him.

1 M. Fajardo

2 MR. WALLACE: Objection.

3 THE WITNESS: How many hours does
4 he owe us?

5 MR. ZABELL: He is asking you,
6 answer your client.

7 MR. WALLACE: I'm not answering
8 that. I'm not testifying.

9 MR. ZABELL: You're refusing to
10 answer your client's question?

11 MR. WALLACE: All communication
12 that I have are going to be between me
13 and my client.

14 Q Do you know why he's refusing to
15 answer your question?

16 A No.

17 Q Maybe he doesn't trust you?

18 A Yes, he trusts me.

19 Q Then, why won't he answer your
20 simple question?

21 A Because maybe he prefers to talk
22 with me in his office. And how many hours do we
23 have in overtime?

24 MR. WALLACE: For the record, that
25 is subject to proof -- as Mr. Zabell is

1 M. Fajardo

2 fully aware, that is subject to proof in
3 a Court of Law that is determined, based
4 on the testimony of all the plaintiffs in
5 front of a jury, if it's a bench trial.

6 It's dependent on all the
7 documents in this case, and dependent on
8 this testimony and how many hours they
9 are actually owed and therefore, it's
10 subject to proof at trial, and that is
11 what I wanted to say for the record.

12 Q Your pay subs, do they show how
13 many hours?

14 MR. WALLACE: Objection.

15 A Yes.

16 MR. ZABELL: I have nothing
17 further.

18 MR. WALLACE: I want to clarify
19 for the record --

20 MR. ZABELL: I have no interest.

21 MR. WALLACE: I don't care. I
22 have some questions on Defendants' 8, one
23 question to --

24 MR. ZABELL: I will not be
25 permitting that. You can cross-notice if

1 M. Fajardo

2 you want to ask your own questions.

3 MR. WALLACE: I wanted to ask
4 questions about the authenticity of his
5 signature on Defendants' Exhibit 8.

6 MR. ZABELL: Not at my deposition.

7 (Time noted: 5:15 p.m.)

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I, MAYNOR FAJARDO, hereby certify that I
have read the transcript of my testimony taken
under oath in my deposition of September 14,
2011; that the transcript is a true, complete
and correct record of my testimony; and that the
answers on the record as given by me are true
and correct.

MAYNOR FAJARDO

Signed and subscribed to
before me, this ____ day
of _____, 20__

Notary Public, State of New York

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I N D E X

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C E R T I F I C A T E

3

STATE OF NEW YORK)
) ss:
COUNTY OF NASSAU)

I, MICHELLE ADAMO, a Shorthand Reporter
and Notary Public within and for the State of
New York, do hereby certify:

That MAYNOR FAJARDO, the witness whose
examination is herein before set forth, was duly
sworn by me and that this transcript of such
examination is a true record of the testimony
given by such witness.

I further certify that I am not related to
any of the parties to this action by blood or
marriage and that I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 14th day of September 2011.



MICHELLE ADAMO

ERRATA SHEET

I wish to make the following changes for
the following reasons:

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